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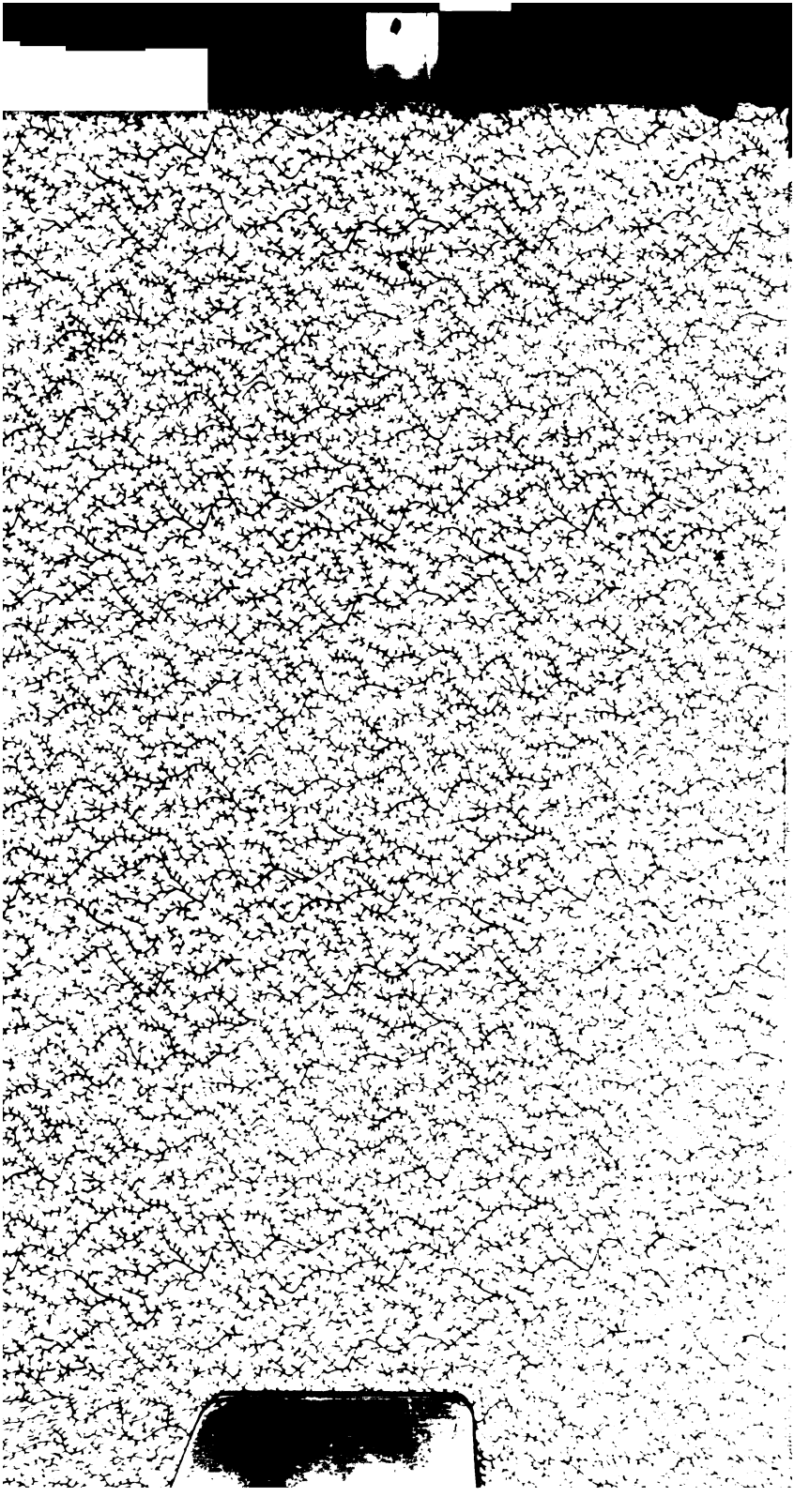
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IRISH ELOQUENCE.

THE

SPEECHES

OF THE

CELEBRATED IRISH ORATORS

PHILIPS, CURRAN, AND GRATTAN.

TO WHICH IS ADDED,

THE POWERFUL APPEAL

OF

ROBERT EMMET,

AT THE CLOSE OF HIS TRIAL FOR HIGH TREASON.

TRANSFERRED

SELECTED BY

A MEMBER OF THE BAR.

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SPEECHES

OF

CHARLES PHILLIPS, Esq.

DELIVERED AT THE BAR,

AND ON

VARIOUS PUBLIC OCCASIONS IN IRELAND AND ENGLAND.

TO WHICH IS ADDED

A LETTER TO GEORGE IV.

EDITED BY HIMSELF.

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PREFACE:

BY JOHN FINLAY, ESQ.

THE Speeches of PHILLIPS are now for the first time offered to the world in an authentic form. So far as his exertions have been hitherto developed, his admirers, and they are innumerable, must admit, that the text of this volume is an acknowledged reference, to which future criticism may fairly resort, and from which his friends must deduce any title which the speaker may have created to the character of an orator.

The interests of his reputation impose no necessity of denying many of those imperfections which have been imputed to these productions. The value of all human exertion is comparative; and positive excellence is but a flattering designation, even of the best products of industry and mind.

There is, perhaps, but one way by which we could avoid all possible defects, and that is, by avoiding all possible exertion. The very fastidious, and the very uncharitable, may too often be met with, in the class of tho indolent; and the man of talent is generally most liberal in his censure, whose industry has given him least title to praise. Thus defects and detraction are as the spots and shadow which, of necessity, adhere and attach to every object of honourable toil. Were it possible for the friends of Mr. Phillips to select those defects which could fill up the measure of unavoidable imperfection, and at the same time inflict least injury on his reputation, doubtless they would prefer the blemishes and errors natural to youth, consonant to genius, and consistent with an obvious and ready correction. To this description, we apprehend, may be reduced all the errors that have been imputed through a system of wide-spreading and unwearied criticism, animated by that envy with which indolence too oft regards the success of industry and talent, and subsidized by power in its struggle to repress the reputation and importance of a rapidly rising young man, whom it had such good reason both to hate and fear. For it would be ignorance not to know, and knowing, it would be affectation to conceal, that his political principles were a drawback on his reputation; and that the dispraise of these speeches has been a discountable *quantity* for the promotion of placemen and the procurement of place.

This system of depreciation thus powerfully wielded, even to the date of the present publication, failed not in its energy, though it has in its object; nay, more; it has succeeded in procuring for him the beneficial results of a multiplying reaction. To borrow the expression of an eminent classic, "the rays of their indignation collected upon him, served to illumine, but could not consume;" and doubtless, this hostility may have promoted this fact, that the materials of this volume are at this moment read in all the languages of Europe; and whatever be the proportion of their merits to their faults, they are unlikely to escape the attention of posterity.

The independent reader, whom this book may introduce to a first or more correct acquaintance with his eloquence, will therefore be disposed to protect his mind against these illiberal prepossessions thus actively diffused, on the double consideration that some defects are essential to such and so much labour, and that some detraction may justly be accounted for by the motives of the system whose vices he exposed. The same reader, if he had not the opportunity of hearing these speeches delivered by the author, will make in his favour another deduction *for a different reason.*

The great father of ancient eloquence was accustomed to say, that action was the first, and second, and last quality of an orator. This was the dictum of a supreme authority; it was an exaggeration notwithstanding; but the observation [illegible] much truth to permit such exaggeration; and whilst we allow that delivery [illegible] every thing, it will be allowed that it is much of the effect of oratory.

Nature has been bountiful to the subject of these remarks in [illegible] useful accident of a prepossessing exterior; an interesting figure, an animated countenance, and a demeanour devoid of affectation, and distinguished by a modest self-possession, give him the favourable opinion of his audience, even before he has addressed them. His eager, lively, and sparkling eye melts or kindles in pathos or indignation; his voice, by its compass, sweetness, and variety, ever audible and seldom loud, never hurried, inarticulate, or indistinct, secures to his audience every word that he utters, and preserves him from the painful appearance of effort.

His memory is not less faithful in the conveyance of his meaning, than his voice: unlike Fox, in this respect, he never wants a word; unlike Burke, he never pretends to want one; and unlike Grattan, he never either wants or recalls one.

His delivery is freed from every thing fantastic—is simple and elegant, impressive and sincere; and if we add the circumstance of his youth to his other external qualifications, none of his contemporaries in this vocation can pretend to an equal combination of these accidental advantages.

If, then, action be a great part of the effect of oratory, the reader who has not heard him, is excluded from that consideration, so important to a right opinion, and on which his excellence is unquestioned.

The ablest and severest of all the critics who have assailed him, (we allude of course to the Edinburgh Review,) in their criticism on Guthrie and Sterne, have paid him an involuntary and unprecedented compliment. He is the only individual in these countries to whom this literary work has devoted an entire article on a single speech; and when it is recollected that the basis of this criticism was an unauthorized and incorrect publication of a single forensic exertion in the ordinary routine of a professional business, it is very questionable whether such a publication afforded a just and proportionate ground-work for so much general criticism, or a fair criterion of the alleged speaker's general merits. This criticism sums up its objections, and concludes its remarks, by the following commending observation,—that a more strict control over his fancy would constitute a remedy for his defects.

Exuberance of fancy is certainly a defect, but it is evidence of an attribute essential to an orator. There are few men without some judgment, but there are many men without any imagination; the latter class never did, and never can produce an orator. Without imagination, the speaker sinks to the mere dry arguer, the matter-of-fact man, the calculator, or syllogist, or sophist; the dealer in figures; the compiler of facts; the mason, but not the architect of the pile; for the dictate of the imagination is the inspiration of oratory which imparts to matter animation and soul.

Oratory is the great art of persuasion; its purpose is to give, in a particular instance, a certain direction to human action. The faculties of the orator are judgment and imagination: and reason and eloquence, the product of these faculties, must work on the judgment and feelings of his audience, for the attainment of his end. The speaker who addresses the judgment alone, may be argumentative, but never can be eloquent: for argument instructs without interesting, and eloquence interests without convincing; but oratory is neither; it is the compound of both; it conjoins the feelings and opinions of men; it speaks to the passions through the mind, and to the mind, through the passions; and leads its audience to its just purpose by the combined and powerful agency of human reason and human feeling. The components of this combination will vary, of course, in proportion to the number and sagacity of the auditory which the speaker addresses. With *judges it is to* be hoped that the passions will be weak; with public assemblies it is to be *hoped that reasoning will be strong*; but although the imagination may, in the first case,

be unemployed, in the second it cannot be dispensed with; for if the advocate of virtue avoids to address the feelings of a mixed assembly, whether it be a jury or a political meeting, he has no security that their feeling, and their bad feelings, may not be brought into action against him; he surrenders to his enemy the strongest of his weapons, and by a species of irrational generosity contrives to insure his own defeat in the conflict. To juries and public assemblies alone, the following speeches have been addressed; and it is by ascertaining their effect on these assemblies or juries, that the merit of the exertion should in justice be measured.

But there seems a general and prevalent mistake among our critics on this judgment. They seem to think that the taste of the individual is the standard by which the value of oratory should be decided. We do not consider oratory a mere matter of taste; it is a given means for the procurement of a given end; and the fitness of its means to the attainment of its end should be in chief the measure of its merit—of this fitness success ought to be the evidence. The preacher who can melt his congregation into tears, and excel others in his struggle to convert the superfluities of the opulent into a treasury for the wretched;—the advocate who procures the largest compensation from juries on their oaths for injuries which they try;—the man who, like Mr. Phillips, can be accused (if ever any man was so accused except himself) by grave lawyers and before grave judges, of having procured a verdict from twelve sagacious and most respectable special jurors, by fascination; of having, by the fascination of his eloquence, blinded them to that duty which they were sworn to observe:—the man who can be accused of this on oath, and the fascination of whose speaking is made a ground work, though an unsuccessful one for setting aside a verdict;—he may be wrong and ignorant in his study and practice of oratory; but with all his errors and ignorance, it must be admitted, that he has in some manner stumbled on the shortest way for attaining the end of oratory—that is, giving the most forceful direction to human action and determination in particular instances His eloquence may be a novelty, but it is beyond example successful; and its success and novelty may be another explanation for the hostility that assails. It may be matter of taste, but it certainly would not be matter of judgment or prudence in Mr. Phillips to depart from a course which has proved most successful, and which has procured for him within the last year a larger number of readers through the world, than ever in the same time resorted to the productions of any man of these countries. His youth carries with it not only much excuse, but much promise of future improvement; and doubtless he will not neglect to apply the fruits of study and the lights of experience to each succeeding exertion. But his manner is his own, and every man's own manner is his best manner; and so long as it works with this unexampled success, he should be slow to adopt the suggestions of his enemies, although he should be sedulous in adopting all legitimate improvement. To that very exuberance of imagination, we do not hesitate to ascribe much of his success; whilst, therefore, he consents to control it, let him be careful lest he clip his wings: nor is the strength of this faculty an argument, although it has been made an argument, against the strength of his reasoning powers; for let us strip these speeches of every thing, whose derivation could be by any construction, assigned to his fancy; let us apply this rule to his judicial and political exertions—for instance to the speech on Guthrie and Sterne, and the late one to the gentlemen of Liverpool—let their topics be translated into plain, dull language, and then we would ask, what collection of topics could be more judicious, better arranged, or classed in a more lucid and consecutive order by the most tiresome wisdom of the sagest arguer at the bar? Is there not abundance to satisfy the judgment, even if there were nothing to sway the feelings, or gratify the imagination? How preposterous, then, the futile endeavour to undervalue the solidity of the ground-work, by withdrawing attention to the beauty of the ornament; or to maintain the deficiency of strength in the base, merely because there appears so much splendour in the structure.

Unaided by the advantages of fortune or alliance, under the frown of political power, and the interested detraction *of professional jealousy*, confining the exercise of that talent

which he derives from his God to the honour, and succour, and protection of his creatures —this interesting and highly gifted young man runs his course like a giant, prospering and to prosper;—in the court as a flaming sword, leading and lighting the injured to their own; and in the public assembly exposing her wrongs—exacting her rights—conquering envy—trampling on corruption—beloved by his country—esteemed by a world—enjoying and deserving an unexampled fame—and actively employing the summer of his life in gathering honours for his name, and garlands for his grave!

A SPEECH

DELIVERED AT A PUBLIC DINNER GIVEN

TO MR. FINLAY

BY THE ROMAN CATHOLICS OF THE TOWN AND COUNTY OF SLIGO.

I THINK, Sir, you will agree with me, that the most experienced speaker might justly tremble in addressing you, after the display you have just witnessed. What, then, must I feel, who never before addressed a public audience? However, it would be but an unworthy affectation in me, were I to conceal from you, the emotions with which I am agitated by this kindness. The exaggerated estimate which other countries have made of the few services so young a man could render, has, I hope, inspired me with the sentiments it ought; but *here*, I do confess to you, I feel no ordinary sensation—here, where every object springs some new association, and the loveliest objects, mellowed as they are by time, rise painted on the eye of memory—here, where the light of heaven first blessed my infant view, and nature breathed into my infant heart, that ardour for my country which nothing but death can chill—here, where the scenes of my childhood remind me how innocent I was, and the grave of my fathers admonish me, how pure I should continue—here, standing as I do amongst my fairest, fondest, earliest sympathies—such a welcome, operating, not merely as an affectionate tribute, but as a moral testimony, does indeed quite oppress and overwhelm me.

Oh! believe me, warm is the heart that feels, and willing is the tongue that speaks; and still, I cannot, by shaping it to my rudely inexpressive phrase, shock the sensibility of a gratitude too full to be suppressed, and yet (how far!) too eloquent for language.

If any circumstance *could add to* the pleasure of this day, it is *that which I feel in introducing* to the friends of my youth, the

friend of my adoption; though perhaps I am committing one of our imputed blunders, when I speak of introducing one whose patriotism has already rendered him familiar to every heart in Ireland; a man, who, conquering every disadvantage, and spurning every difficulty, has poured around our misfortunes the splendour of an intellect, that at once irradiates and consumes them. For the services he has rendered to his country, from my heart I thank him; and, for myself, I offer him a personal, it may be a selfish, tribute for saving me, by his presence this night, from an impotent attempt at his panegyric. Indeed, gentlemen, you can have little idea of what he has to endure, who in these times, advocates your cause. Every calumny which the venal and the vulgar, and the vile, are lavishing upon you, is visited with exaggeration upon us. We are called traitors, because we would rally round the crown an unanimous people. We are called apostates, because we will not persecute Christianity. We are branded as separatists, because of our endeavours to annihilate the fetters that, instead of binding, clog the connection. To these may be added, the frowns of power, the envy of dulness, the mean malice of exposed self-interest, and, it may be, in despite of all natural affection, even the discountenance of kindred! —Well be it so,—

> For thee, fair Freedom, welcome all the past,
> For thee, my country, welcome, even the last!

I am not ashamed to confess to you, that there was a day when I was bigotted as the blackest; but I thank the Being who gifted me with a mind not quite impervious to conviction, and I thank you, who afforded such convincing testimonies of my error. I saw you enduring with patience the most unmerited assaults, bowing before the insults of revived anniversaries; in private life, exemplary; in public, unoffending; in the hour of peace, asserting your loyalty; in the hour of danger, proving it. Even when an invading enemy victoriously penetrated into the very heart of our country, I saw the banner of your allegiance beaming refutation on your slanderers; was it a wonder then, that I seized my prejudices, and with a blush burned them on the altar of my country!

The great question of Catholic, shall I not rather say, of Irish *emancipation*, has now assumed that national aspect which im*periously challenges the* scrutiny of every one. While it was

shrouded in the mantle of religious mystery, with the temple for its sanctuary, and the pontiff for its sentinel, the vulgar eye might shrink and the vulgar spirit shudder. But now it has come forth, visible and tangible for the inspection of the laity; and I solemnly protest, dressed as it has been in the double haberdashery of the English minister and the Italian prelate, I know not whether to laugh at its appearance, or to loathe its pretensions—to shudder at the deformity of its original creation, or smile at the grotesqueness of its foreign decorations. Only just admire this far-famed security bill,—this motley compound of oaths and penalties, which, under the name of emancipation, would drag your prelates with a halter about their necks to the vulgar scrutiny of every village tyrant, in order to enrich a few political traders, and distil through some state alembic the miserable rinsings of an ignorant, a decaying, and degenerate aristocracy! Only just admire it! Originally engendered by our *friends* the opposition, with a *cuckoo* insidiousness they swindled it into the nest of the treasury ravens, and when it had been fairly hatched with the beak of the one, and the nakedness of the other, they sent it for its feathers to MONSEIGNEUR QUARANTOTTI, who has obligingly transmitted it with the hunger of its parent, the rapacity of its nurse, and the coxcombry of its *plumassier*, to be baptized by the bishops, and received *æquo gratoque animo* by the people of Ireland!! Oh, thou sublimely ridiculous Quarantotti! Oh, thou superlative coxcomb of the conclave! what an estimate hast thou formed of the MIND of Ireland! Yet why should I blame this wretched scribe of the Propaganda! He had every right to speculate as he did; all the chances of the calculation were in his favour. Uncommon must be the people, over whom centuries of oppression have revolved in vain! Strange must be the mind, which is not subdued by suffering! Sublime the spirit which is not debased by servitude! God, I give thee thanks!—he knew not IRELAND. Bent—broken—manacled as she had been, she will not bow to the mandate of an Italian slave, transmitted through an English vicar. For my own part, as an Irish Protestant. I trample to the earth this audacious and desperate experiment of authority; and for you, as Catholics, the time is come to give that calumny the lie, which represents you as subservient to a foreign influence. That influence, indeed, seems

not quite so unbending as it suited the purposes of bigotry to represent it, and appears now not to have conceded more, only because more was not demanded. The theology of the question is not for me to argue, it cannot be in better hands than in those of your bishops; and I can have no doubt that when they bring their rank, their learning, their talents, their piety, and their patriotism to this sublime deliberation, they will consult the dignity of that venerable fabric which has stood for ages, splendid and immutable; which time could not crumble, nor persecutions shake, nor revolutions change; which has stood amongst us, like some stupendous and majestic Appenine, the earth rocking at its feet, and the heavens roaring round its head, firmly balanced on the base of its eternity; the relic of WHAT WAS; the solemn and sublime memento of WHAT MUST BE!

Is this my opinion as a professed member of the church of England? Undoubtedly it is. As an IRISHMAN, I feel my liberties interwoven, and the best affections of my heart as it were *enfibred* with those of my Catholic countrymen; and as a PROTESTANT, convinced of the purity of my own faith, would I not debase it by postponing the powers of reason to the suspicious instrumentality of this world's conversion? No; surrendering as I do, with a proud contempt, all the degrading advantages with which an ecclesiastical usurpation would invest me; so I will not interfere with a blasphemous intrusion between any man and his Maker. I hold it a criminal and accursed sacrilege, to rob even a beggar of a single motive for his devotion: and I hold it an equal insult to my own faith, to offer me any boon for its profession. This pretended emancipation-bill passing into a law, would, in my mind, strike not a blow at this sect or that sect, but at the very vitality of Christianity itself. I am thoroughly convinced that the antichristian connection between church and state, which it was suited to increase, has done more mischief to the Gospel interest, than all the ravings of infidelity since the crucifixion. The sublime Creator of our blessed creed never meant it to be the channel of a courtly influence, or the source of a corrupt ascendancy. He sent it amongst us to heal, not to irritate; to associate, not to seclude; to collect together, like the baptismal dove, every creed and clime and colour in the universe, beneath the spotless wing of its protection. The union of church and

and state only converts good Christians into bad statesmen, and political knaves into pretended Christians. It is at best but a foul and adulterous connection, polluting the purity of heaven with the abomination of earth, and hanging the tatters of a *political piety* upon the cross of an insulted Saviour. RELIGION, HOLY RELIGION, ought not, in the words of its Founder, to be "led into temptation." The hand that holds her chalice should be pure, and the priests of her temple should be spotless as the vestments of their ministry. Rank only degrades, wealth only impoverishes, ornaments but disfigure her. I would have her pure, unpensioned, unstipendary; she should rob the earth of nothing but its sorrows: a divine arch of promise, her extremities should rest on the horizon, and her span embrace the universe; but her only sustenance should be the tears that were exhaled and embellished by the sun-beam. Such is my idea of what religion ought to be. What would this bill make it? A mendicant of the Castle, a menial at the levee, its manual the red book, its liturgy the pension list, its gospel the will of the minister! Methinks I see the stalled and fatted victim of its creation, cringing with a brute suppliancy through the venal mob of ministerial flatterers, crouching to the ephemeral idol of the day; and, like the devoted sacrifice of ancient heathenism, glorying in the garland that only decorates him for death! I will read to you the opinions of a celebrated Irishman, on the suggestion in his day, of a bill similar to that now proposed for our oppression. He was a man who added to the pride not merely of his country, but of his species—a man who robed the very soul of inspiration in the splendours of a pure and overpowering eloquence. I allude to Mr. Burke—an authority at least to which the sticklers for establishments can offer no objection. "Before I had written thus far," says he, in his letter on the penal laws, "I heard of a scheme for giving the Castle the patronage of the presiding members of the Catholic clergy. At first I could scarcely credit it; for I believe it is the first time that the presentation to other people's alms has been desired in any country. Never were the members of one religious sect fit to appoint the pastors to another. It is a great deal to suppose that the present Castle would nominate bishops for the Roman church in Ireland, with a religious regard for its welfare. Perhaps they cannot, perhaps they dare not *do it. But suppose them to be* as well inclined, as I know that I

am, to do the Catholics all kinds of justice, I declare I would not, if it were in my power, take that patronage on myself. I know I ought not to do it. I belong to another community; and it would be an intolerable usurpation in me, where I conferred no benefit, or even if I did confer temporal advantages. How can the Lord Lieutenant form the least judgment on their merits, so as to decide which of the popish priests is fit to be a bishop? It cannot be. The idea is ridiculous. He will hand them over to Lords-Lieutenant of counties, justices of the peace, and others, who, for the purpose of vexing and turning into derision this miserable people, will pick out the worst and most obnoxious they can find amongst the clergy to govern the rest. Whoever is complained against by his brother, will be considered as persecuted; whoever is censured by his superior, will be looked upon as oppressed; whoever is careless in his opinions, loose in his morals, will be called a liberal man, and will be supposed to have incurred hatred because he was not a bigot. Informers, tale-bearers, perverse and obstinate men, flatterers, who turn their back upon their flock, and court the Protestant gentlemen of their country, will be the objects of preferment; and then I run no risk in foretelling, that whatever order, quiet, and morality you have in the country, will be lost." Now, let me ask you, is it to such characters as those described by Burke, that you would delegate the influence imputed to your priesthood? Believe me, you would soon see them transferring their devotion from the Cross to the Castle; wearing their sacred vestments but as a masquerade appendage, and, under the degraded passport of the Almighty's name, sharing the pleasures of the court, and the spoils of the people. When I say this I am bound to add, and I do so from many proud and pleasing recollections, that I think the impression on the Catholic clergy of the present day would be late, and would be delible. But it is human nature. Rare are the instances in which a contact with the court has not been the beginning of corruption. The man of God is peculiarly disconnected with it. It directly violates his special mandate, who took his birth from the manger and his disciples from the fishing-boat. Judas was the first who received the money of power, and it ended in the disgrace of his creed and the death of his master. If I was a Catholic, I would *peculiarly* deprecate any interference with my priesthood. Indeed, *I do not think, in any one* respect in which we should wish to

view the delegates of the Almighty, that, making fair allowances for human infirmity, they could be amended. The catholic clergy of Ireland are rare examples of the doctrines they inculcate. Pious in their habits, almost primitive in their manners they have no care but their flock—no study but their Gospel. It is not in the gaudy ring of courtly dissipation that you will find the MURRAYS, the CORPINGERS, and the MOYLANDS of the present day—not at the levee, or the lounge, or the election-riot. No; you will find them wherever good is to be done, or evil to be corrected—rearing their mitres in the van of misery, consoling the captive, reforming the convict, enriching the orphan; ornaments of this world, and emblems of a better: preaching their God through the practice of every virtue; monitors at the confessional, apostles in the pulpit, saints at the death-bed, holding the sacred water to the lip of sin, or pouring the redeeming unction on the agonies of despair. Oh, I would hold him little better than the Promethean robber, who would turn the fire of their eternal altar into the impure and perishable mass of this world's preferment. Better by far that the days of ancient barbarism should revive—better that your religion should again take refuge among the fastnesses of the mountain, and the solitude of the cavern—better that the rack of a murderous bigotry should again terminate the miseries of your priesthood, and that the gate of freedom should be only open to them through the gate of martyrdom, than they should gild their missals with the wages of a court, and expect their ecclesiastical promotion, not from their superior piety, but their comparative prostitution. But why this interference with your principles of conscience? Why is it that they will not erect your liberties save on the ruin of your temples? Why is it that in the day of peace they demand securities from a people who in the day of danger constituted their strength? When were they denied every security that was reasonable? Was it in 1776, when a cloud of enemies, hovering on our coast, saw every heart a shield, and every hill a fortress? Did they want securities in Catholic Spain? Were they denied securities in Catholic Portugal? What is their security to-day in Catholic Canada? Return—return to us our own glorious WELLINGTON, and tell incredulous England what was her security amid the lines of Torres Vedras, or on *the summit* of Barrossa! Rise, libelled *martyrs of the Peninsula!*—rise from your "gory bed," and give

security for your childless parents! No, there is not a Cath family in Ireland, that for the glory of great Britain is not w ing over a child's, a brother's, or a parent's grave, and yet she clamours for securities! Oh, Prejudice! where is thy rea Oh, Bigotry! where is thy blush! If ever there was an oppo nity for England to combine gratitude with justice, and dig with safety, it is the present. Now, when Irish blood has c soned the cross upon her naval flag, and an Irish hero str the harp to victory upon the summit of the Pyrenees. Englan England! do not hesitate. This hour of triumph may be the hour of trial; another season may see the splendid panor of European vassalage, arrayed by your ruthless enemy, and tering beneath the ruins of another capitol—perhaps of Lon Who can say it? A few months since, Moscow stood as splen as secure. Fair rose the morn on the patriarchal city—the press of her nation, the queen of commerce, the sanctuary strangers; her thousand spires pierced the very heavens, and domes of gold reflected back the sun-beams. The spoiler ca he marked her for his victim; and, as if his very glance was tiny, even before the night-fall, with all her pomp, and we and happiness, she withered from the world! A heap of a told where once stood Moscow! Merciful God, if this lord of solation, heading his locust legions, were to invade our coun though I do not ask what would be your determination; tho in the language of our young enthusiast, I am sure you w oppose him with "a sword in one hand, and a torch in the oth still I do ask with fearlessness, upon what single principle of licy or of justice, could the advocates for your exclusion s your assistance—could they expect you to support a constit from whose benefits you were debarred? With what front c they ask you to recover an ascendency, which, in point of was but re-establishing your bondage?

It has been said that there is a faction in Ireland rea join this despot—"a French party," as Mr. Grattan thoug decent, even in the very senate house, to promulgate. S speak the universal voice of Ireland when I say, she spurns imputation. There is no "French party," here, but there and it would be strange if there was not—there is an *party—men* who cannot bear to see their country taunted *the mockery of* a constitution—men who will be content wit

connection that refuses them a community of benefits while it imposes a community of privations—men who, sooner than see this land polluted by the footsteps of a slave, would wish the ocean-wave became its sepulchre, and that the orb of heaven forgot where it existed. It has been said too, (and when we were to be calumniated, what has not been said?) that Irishmen are neither fit for freedom or grateful for favours. In the first place, I deny that to be a favour which is a *right;* and in the next place, I utterly deny that a system of conciliation has ever been adopted with respect to Ireland. Try them, and, my life on it, they will be found grateful. I think I know my countrymen; they cannot help being grateful for a benefit; and there is no country on the earth where one would be conferred with more characteristic benevolence. They are, emphatically, the school-boys of the heart—a people of sympathy; their acts spring instinctively from their passions; by nature ardent, by instinct brave, by inheritance generous. The children of impulse, they cannot avoid their virtues; and to be other than noble, they must not only be unnatural but unnational. Put my panegyric to the test. Enter the hovel of the Irish peasant. I do not say you will find the frugality of the Scotch, the comfort of the English, or the fantastic decorations of the French cottager; but I do say, within those wretched bazaars of mud and misery, you will find sensibility the most affecting, politeness the most natural, hospitality the most grateful, merit the most unconscious; their look is eloquence, their smile is love, their retort is wit, their remark is wisdom—not a wisdom borrowed from the dead, but that with which nature herself has inspired them; an acute observance of the passing scene, and a deep insight into the motives of its agent. Try to deceive them, and see with what shrewdness they will detect; try to outwit them, and see with what humour they will elude; attack them with argument, and you will stand amazed at the strength of their expression, the rapidity of their ideas, and the energy of their gesture. In short, God seems to have formed our country like our people: He has thrown round the one its wild, magnificent, decorated rudeness; He has infused into the other the simplicity of genius and the seeds of virtue: He says audibly to us, "Give them cultivation."

This is the way, Gentlemen, in which I have always looked upon *your question—not as a party*, or a sectarian, or a Catholic,

but as an IRISH question. Is it possible that any man can seriously believe the paralyzing five millions of such a people as I have been describing, can be a benefit to the empire! Is there any man who deserves the name not of a statesman but of a rational being, who can think it politic to rob such a multitude of all the energies of an honourable ambition! Look to Protestant Ireland, shooting over the empire those rays of genius, and those thunderbolts of war, that have at once embellished and preserved it. I speak not of a former era. I refer not for my example to the day just passed, when our Burks, our Barrys, and our Goldsmiths, exiled by this system from their native shore, wreathed the "immortal shamrock" round the brow of painting, poetry, and eloquence! But now, even while I speak, who leads the British senate? A Protestant Irishman! Who guides the British arms? A Protestant Irishman! And why, why is Catholic Ireland, with her quintuple population, stationary and silent? Have physical causes neutralized its energies? Has the religion of Christ stupefied its intellect? Has the God of mankind become the partizan of a monopoly, and put an interdict on its advancement? Stranger, do not ask the bigotted and pampered renegade who has an interest in deceiving you; but open the penal statutes, and weep tears of blood over the reason. Come—come yourself, and see this unhappy people; see the Irishman, the only alien in Ireland, in rags and wretchedness, staining the sweetest scenery ever eye reposed on, persecuted by the extorting middleman of some absentee landlord, plundered by the lay-proctor of some rapacious and unsympathizing incumbent, bearing through life but insults and injustice, and bereaved even of any hope in death by the heart-rending reflection that he leaves his children to bear, like their father, an abominable bondage? Is it the fact? Let any who doubts it walk out into your streets, and see the consequences of such a system; see it rearing up crowds in a kind of apprenticeship to the prison, absolutely permitted by their parents, from utter despair, to lisp the alphabet and learn the rudiments of profligacy? For my part, never did I meet one of these youthful assemblages without feeling within me a melancholy emotion. How often have I thought, within that little circle of neglected triflers who seem to have been born in caprice and bred in orphanage, there may exist some mind formed of the *finest mould, and wrought* for immortality; a soul swelling with

the energies and stamped with the patent of the Deity, which, under proper culture might perhaps bless, adorn, immortalize, or ennoble empires; some CINCINNATUS, in whose breast the destinies of a nation may lie dormant; some MILTON, "pregnant with celestial fire;" some CURRAN, who, when thrones were crumbled and dynasties forgotten, might stand the landmark of his country's genius, rearing himself amid regal ruins and national dissolution, a mental pyramid in the solitude of time, beneath whose shade things might moulder, and round whose summit eternity must play. Even in such a circle the young DEMOSTHENES might have once been found, and HOMER, the disgrace and glory of his age, have sung neglected! Have not other nations witnessed those things, and who shall say that nature has peculiarly degraded the intellect of Ireland? Oh, my countrymen, let us hope that under better auspices and a sounder policy, the ignorance that thinks so may meet its refutation. Let us turn from the blight and ruin of this wintry day to the fond anticipation of a happier period, when our prostrate land shall stand erect among the nations, fearless and unfettered; her brow blooming with the wreath of science, and her path strewed with the offerings of art; the breath of heaven blessing her flag, the extremities of earth acknowledging her name, her fields waving with the fruits of agriculture, her ports alive with the contributions of commerce, and her temples vocal with unrestricted piety. Such is the ambition of the true patriot; such are the views for which we are calumniated! Oh, divine ambition! Oh, delightful calumny! Happy he who shall see thee accomplished! Happy he who through every peril toils for thy attainment! Proceed, friend of Ireland and partaker of her wrongs, proceed undaunted to this glorious consummation. Fortune will not gild, power will not ennoble thee: but thou shalt be rich in the love and titled by the blessings of thy country; thy path shall be illumined by the public eye, thy labours enlightened by the public gratitude; and oh, remember—amid the impediments with which corruption will oppose, and the dejection with which disappointments may depress you—remember you are acquiring a name to be cherished by the future generations of earth, long after it the been enrolled amongst the inheritors of heaven.

A SPEECH

DELIVERED AT AN AGGREGATE MEETING OF THE ROMAN CATHOLICS OF CORK.

It is with no small degree of self-congratulation that I at length find myself in a province which every glance of the eye, and every throb of the heart, tells me is truly Irish; and that congratulation is not a little enhanced by finding that you receive me not quite as a stranger. Indeed, if to respect the Christian without regard to his creed, if to love the country but the more for its calamities, if to hate oppression though it be robed in power, if to venerate integrity though it pine under persecution, gives a man any claim to your recognition, then, indeed, I am not a stranger amongst you. There is a bond of union between brethren, however distant; there is a sympathy between the virtuous, however separated; there is a heaven-born instinct by which the associates of the heart become at once acquainted, and kindred natures, as it were by magic, see in the face of a stranger, the features of a friend. Thus it is, that, though we never met, you hail in me the sweet association, and I feel myself amongst you even as if I were in the home of my nativity. But this my knowledge of you was not left to chance; nor was it left to the records of your charity, the memorials of your patriotism, your municipal magnificence, or your commercial splendour; it came to me hallowed by the accents of that tongue on which Ireland has so often hung with ecstacy, heightened by the eloquence and endeared by the sincerity of, I hope, our mutual friend. Let me congratulate him on having become in some degree naturalized in a province, where the spirit of the elder day seems to have lingered; and let me congratulate you on the acquisition of a man who is at once the zealous advocate of your cause, and a practical instance of the injus ce of your oppressions. Surely, surely if merit had fair play, if splendid talents, *if indefatigable industry*, if great research, if unsullied principle,

of a heart full of the finest affections, if a mind matured in every manly accomplishment, in short, if every noble, public quality, mellowed and reflected in the pure mirror of domestic virtue, could entitle a subject to distinction in a state, Mr. O'Connel should be distinguished; but, it is his crime to be a Catholic, and his curse to be an Irishman. Simpleton! he prefers his conscience to a place, and the love of his country to a participation in her plunder! Indeed he will never rise. If he joined the bigots of my sect, he might be a sergeant; if he joined the infidels of your sect, he might enjoy a pension, and there is no knowing whether some Orange-corporator, at an Orange-anniversary, might not modestly yield him the precedence of giving "the glorious and immortal memory." Oh, yes; he might be privileged to get drunk in gratitude to the man who colonized ignorance in his native land, and left to his creed the legacy of legalized persecution. Nor would he stand alone, no matter what might be the measure of his disgrace, or the degree of his dereliction. You will know there are many of your own community who would leave him at the distance-post. In contemplating their recreancy, I should be almost tempted to smile at the exhibition of their pretensions, if there was not a kind of moral melancholy intermingled, that changed satire into pity, and ridicule into contempt. For my part, I behold them in the apathy of their servitude, as I would some miserable maniac in the contentment of his captivity. Poor creature! when all that raised him from the brute is levelled, and his glorious intellect is mouldering in ruins, you may see him with his song of triumph, and his crown of straw, a fancied freeman amid the clanking of his chains, and an imaginary monarch beneath the inflictions of his keeper! Merciful God! is it not almost an argument for the sceptic and the disbeliever, when we see the human shape almost without an aspiration of the human soul, separated by no boundary from the beasts that perish—beholding with indifference the captivity of their country, the persecution of their creed, and the helpless, hopeless destiny of their children? But they have nor creed nor consciences, nor country; their god is gold, their gospel is a contract, their church a counting-house, their characters a commodity; they never pray but for the opportunities of corruption, and hold their consciences, as they do their government-debentures, at a price proportioned to the *misfortunes of their country*. But let us turn from these mer-

dicants of disgrace: though Ireland is doomed to the stain of their birth, her mind need not be sullied by their contemplation. I turn from them with pleasure to the contemplation of your cause, which, as far argument can affect it, stands on a sublime and splendid elevation. Every obstacle has vanished into air; every favourable circumstance has hardened into adamant. The Pope, whom childhood was taught to lisp as the enemy of religion, and age shuddered at as a prescriptive calamity, has by his example put the princes of Christendom to shame. This day of miracles, in which the human heart has been strung to its extremest point of energy; this day, to which posterity will look for instances of every crime and every virtue, holds not in its page of wonders a more sublime phenomenon, than that calumniated pontiff. Placed at the very pinnacle of human elevation, surrounded by the pomp of the Vatican and the splendours of the court, pouring the mandates of CHRIST from the throne of the CÆSARS, nations were his subjects, kings were his companions, religion was his handmaid; he went forth gorgeous with the accumulated dignity of ages, every knee bending, and every eye blessing the prince of one world, and the prophet of another. Have we not seen him in one moment, his crown crumbled, his sceptre a reed, his throne a shadow, his home a dungeon! But if we have, Catholics, it was only to show how inestimable is human virtue compared with human grandeur; it was only to show those whose faith was failing, and whose fears were strengthening, that the simplicity of the patriarchs, the piety of the saints, and the patience of the martyrs, had not wholly vanished. Perhaps it was also ordained to show the bigot at home, as well as the tyrant abroad, that though the person might be chained, and the motive calumniated, religion was still strong enough to support her sons, and to confound, if she could not reclaim, her enemies. No threats could awe, no promises could tempt, no sufferings could appal him; mid the damps of his dungeon he dashed away the cup in which the pearl of his liberty was to be dissolved. Only reflect on the state of the world at that moment? All around him was convulsed, the very foundations of the earth seemed giving way, the comet was let loose that, "from its fiery hair shook pestilence and death," the twilight was gathering, the tempest was roaring, the darkness was at hand; but he towered sublime, like the last mountain in the *deluge—majestic, not less* in his elevation than in his solitude, im-

mutable amid change, magnificent amid ruin, the last remnant of earth's beauty, the last resting-place of heaven's light! Thus have the terrors of the VATICAN retreated; thus has that cloud which hovered o'er your cause, brightened at once into a sign of your faith, and an assurance of your victory.—Another obstacle, the omnipotence of FRANCE; I know it was a pretence, but it was made an obstacle. What has become of it? The spell of her invincibility destroyed, the spirit of her armies broken, her immense boundary dismembered, and the lord of her empire become the exile of a rock. She allows fancy no fear, and bigotry no speciousness; and, as if in the very operation of the change to point the purpose of your redemption, the hand that replanted the rejected lily was that of an *Irish Catholic*. Perhaps it is not also unworthy of remark, that the last day of her triumph, and the first of her decline, was that on which her insatiable chieftain smote the holy head of your religion. You will hardly suspect I am imbued with the follies of superstition; but when the man now unborn shall trace the story of that eventful day, he will see the adopted child of fortune, borne on the wings of victory from clime to clime, marking every movement with a triumph, and every pause with a crown, till time, space, and seasons, nay, even nature herself, seeming to vanish from before him—in the blasphemy of his ambition he smote the apostle of his God, and dared to raise the everlasting CROSS amid his perishable trophies! I am no fanatic: but is it not remarkable? May it not be one of those signs which the Deity has sometimes given, in compassion to our infirmity? signs, which, in the punishment of one nation, not unfrequently denote the warning to another;—

> "Signs sent by God to mark the will of Heaven:
> Signs, which bid nations weep and be forgiven."

The argument, however, is taken from the bigot; and those whose consciousness taught them to expect what your loyalty should have taught them to repel, can no longer oppose you from the terrors of invasion. Thus, then, the papal phantom and the French threat have vanished into nothing.—Another obstacle, the tenets of your creed. Has England still to learn them? I will tell her where. Let her ask Canada, the last plank of her American shipwreck. Let her ask Portugal, the first omen of her European splendour. Let her ask Spain, the most Catholic country in the *universe, her* Catholic friends, her Catholic allies,

her rivals in the triumph, her reliance in the retreat, her last stay when the world had deserted her. They must have told her on the field of blood, whether it was true that they "*kept no faith with heretics.*" Alas, alas! how miserable a thing is bigotry, when every friend puts it to the blush, and every triumph but rebukes its weakness. If England continued still to accredit this calumny, I would direct her for conviction to the hero, for whose gift alone she owes us an eternity of gratitude; whom we have seen leading the van of universal emancipation, decking his wreath with the flowers of every soil, and filling his army with the soldiers of every sect; before whose splendid dawn, every tear exhaling, and every vapour vanishing, the colours of the European world have revived, and the spirit of European liberty (may no crime avert the omen!) seems to have arisen! Suppose he was a Catholic, could this have been? Suppose Catholics did not follow him, could this have been? Did the Catholic Cortes inquire his faith when they gave him the supreme command? Did the Regent of Portugal withhold from his creed the reward of his valour? Did the Catholic soldier pause at Salamanca to dispute upon polemics? Did the Catholic chieftain prove upon Barrossa that he kept no faith with heretics? or did the creed of Spain, the same with that of France, the opposite of that of England, prevent their association in the field of liberty? Oh, no, no, no! the citizen of every clime, the friend of every colour, and the child of every creed, liberty walks abroad in the ubiquity of her benevolence: alike to her the varieties of faith and the vicissitudes of country; she has no object but the happiness of man, no bounds but the extremities of creation. Yes, yes, it was reserved for Wellington to redeem his own country when he was regenerating every other. It was reserved for him to show how vile were the aspersions on your creed, how generous were the glowings of your gratitude. He was a Protestant, yet Catholics trusted him; he was a Protestant, yet Catholics advanced him? He is a Protestant Knight in Catholic Portugal; he is a Protestant Duke in Catholic Spain; he is a Protestant commander of Catholic armies: he is more; he is the living proof of the Catholic's liberality, and the undeniable refutation of the Protestant's injustice. Gentlemen, as a Protestant, though I may blush for the bigotry of many of my creed who continue obstinate, *in the teeth of* this conviction, still, were I a Catholic, I

should feel little triumph in the victory. I should only hang my head at the distresses which this warfare occasioned to my country. I should only think how long she had withered in the agony of her disunion; how long she had bent, fettered by slaves, cajoled by blockheads, and plundered by adventurers; the proverb of the fool, the prey of the politician, the dupe of the designing, the experiment of the desperate; struggling as it were between her own fanatical and infatuated parties, those hell-engendered serpents which enfold her, like the Trojan seer, even at the worship of her altars, and crush her to death in the very embraces of her children! It is time (is it not?) that she should be extricated. The act would be proud, the means would be Christian; mutual forbearance, mutual indulgence, mutual concession: I would say to the Protestant, 'Concede;' I would say to the Catholic, 'Forgive;' I would say to both, 'Though you bend not at the same shrine, you have a common God, and a common country; the one has commanded love, the other kneels to you for peace.' This hostility of her sects has been the disgrace, the peculiar disgrace of Christianity. The Gentoo loves his cast; so does the Mahometan; so does the Hindoo, whom England, out of the abundance of her charity, is about to teach her creed;—I hope she may not teach her practice. But Christianity—Christianity alone, exhibits her thousand sects, each denouncing his neighbour here, in the name of God; and damning hereafter, out of pure devotion! "You're a heretic," says the Catholic: "You're a Papist," says the Protestant. "I appeal to Saint Peter," exclaims the Catholic: "I appeal to Saint Athanasius," cries the Protestant: "and if it goes to damning, he's as good at it as any saint in the calendar." "You'll all be damned eternally," moans out the Methodist; "I'm the elect!" Thus it is, you see, each has his anathema, his accusation, and his retort; and in the end Religion is the victim! The victory of each is the overthrow of all; and Infidelity, laughing at the contest, writes the refutation of their creed in the blood of the combatants! I wonder if this reflection has ever struck any of those reverend dignitaries who rear their mitres against Catholic emancipation. Has it ever glanced across their Christian zeal, if the story of our country should have casually reached the valleys of Hindostan, with what an argument they are furnishing the heathen world against their sacred *missionary? In what terms* could the Christian ecclesiastic

answer the Eastern Bramin, when he replied to his exhortations in language such as this? "Father, we have heard your doctrine; it is splendid in theory, specious in promise, sublime in prospect; like the world to which it leads, it is rich in the miracles of light. But, Father, we have heard that there are times when its rays vanish and leave your sphere in darkness, or when your only lustre arises from meteors of fire, and moons of blood; we have heard of the verdant island which the Great Spirit has raised in the bosom of the waters with such a bloom of beauty, that the very wave she has usurped, worships the loveliness of her intrusion. The sovereign of our forests is not more generous in his anger than her sons; the snow-flake, ere it falls on the mountain, is not purer than her daughters; little inland seas reflect the splendours of her landscape, and her valleys smile at the story of the serpent! Father, is it true, that this isle of the sun, this people of the morning, find the fury of the ocean in your creed, and more than the venom of the viper in your policy? Is it true, that for six hundred years her peasant has not tasted peace, nor her piety rested from persecution? Oh, Brama! defend us from the God of the Christian! Father, father, return to your brethren, retrace the waters; we may live in ignorance, but we live in love; and we will not taste the tree that gives us evil when it gives us wisdom. The heart is our guide, nature is our gospel; in the imitation of our fathers we found our hope; and, if we err, on the virtue of our motives we rely for our redemption." How would the missionaries of the mitre answer him? How will they answer that insulted Being of whose creed their conduct carries the refutation?

But to what end do I argue with the BIGOT?—a wretch, whom no philosophy can humanize, no charity soften, no religion reclaim, no miracle convert: a monster, who, red with the fires of hell, and bending under the crimes of earth, erects his murderous divinity upon a throne of sculls, and would gladly feed, even with a brother's blood, the cannibal appetite of his rejected altar! His very interest cannot soften him into humanity. Surely if it could, no man would be found mad enough to advocate a system which cankers the very heart of society, and undermines the natural resources of government; which takes away the strongest excitement to industry, by closing up every avenue to laudable *ambition; which* administers to the vanity or the vice of a party

when it should only study the advantage of a people; and holds out the perquisites of state as an impious bounty on the persecution of religion.—I have already shown that the power of the Pope, that the power of France, and that the tenets of your creed, were but imaginary auxiliaries to this system. Another pretended obstacle has, however, been opposed to your emancipation. I allude to the danger arising from a foreign influence. What a triumphant answer can you give to that! Methinks, as lately, I see the assemblage of your hallowed hierarchy, surrounded by the priesthood, and followed by the people, waving aloft the crucifix of Christ alike against the seductions of the court, and the commands of the conclave! Was it not a delightful, a heart-cheering spectacle, to see that holy band of brothers preferring the chance of martyrdom to the certainty of promotion, and postponing all the gratifications of worldly pride, to the severe but heaven-gaining glories of their poverty? They acted honestly, and they acted wisely also; for I say here, before the largest assembly I ever saw in any country—and I believe you are almost all Catholics—I say here, that if the see of Rome presumed to impose any temporal mandate directly or indirectly on the Irish people, the Irish bishops should at once abandon it; or the flocks, one and all, would abjure and banish them both together. History affords us too fatal an example of the perfidious, arrogant, and venal interference of a papal usurper of former days, in the temporal jurisdiction of this country; an interference assumed without right, exercised without principle, and followed by calamities apparently without end. Thus, then, has every obstacle vanished: but it has done more—every obstacle has, as it were, by miracle, produced a powerful argument in your favour. How do I prove it? Follow me in my proofs, and you will see by what links the chain is united. The power of Napoleon was the grand and leading obstacle to your emancipation. That power led him to the menace of an Irish invasion. What did that prove? Only the sincerity of Irish allegiance. On the very threat, we poured forth our volunteers, our yeomen, and our militia; and the country became encircled with an armed and a loyal population. Thus then the calumny of your disaffection vanished.—That power next led him to the invasion of Portugal. What did it prove? Only the good faith of Catholic allegiance. Every field in the Peninsula *saw the Catholic* Portuguese hail the English



Protestant as a brother and a friend, joined in the same pride and the same peril. Thus, then, vanished the slander, that you could not keep faith with heretics.—That power next led him to the imprisonment of the Pontiff, so long suspected of being quite ready to sacrifice every thing to his interest and his dominion. What did that prove? The strength of his principles, the purity of his faith, the disinterestedness of his practice. It proved a life spent in the study of the saints, and ready to be closed by an imitation of the martyrs. Thus, also, was the head of your religion vindicated to Europe.—There remained behind but one impediment—your liability to a foreign influence. Now mark! The Pontiff's captivity led to the transmission of Quarantotti's rescript; and, on its arrival, from the priest to the peasant, there was not a Catholic in the land, who did not spurn the document of Italian audacity! Thus, then, vanished also the phantom of a foreign influence! Is this conviction? Is not the hand of God in it? Oh yes! for observe what followed. The very moment that power, which was the first and last leading argument against you, had, by its special operation, banished every obstacle; that power itself, as it were by enchantment, evaporated at once; and peace with Europe took away the last pretence for your exclusion. Peace with Europe! alas, alas, there is no peace for Ireland: the universal pacification was but the signal for renewed hostility to us; and the mockery of its preliminaries were tolled through our provinces by the knell of the curfew. I ask, is it not time that this hostility should cease? If ever there was a day when it was necessary, that day undoubtedly exists no longer. The continent is triumphant, the Peninsula is free, France is our ally. The hapless house which gave birth to Jacobinism is extinct for ever. The Pope has been found not only not hostile, but complying. Indeed, if England would recollect the share you had in these sublime events, the very recollection should *subsidize* her into gratitude. But should she not—should she, with a baseness monstrous and unparalleled, forget our services, she has still to study a tremendous lesson. The ancient order of Europe, it is true, is restored, but what restored it? Coalition after coalition had crumbled away before the might of the conqueror; crowns were but ephemeral; monarchs only the tenants of an hour; the descendants of Frederick dwindled into a vassal; the heir of Peter *shrunk into the recesses* of his frozen desert; the successor of

harles roamed a vagabond, not only throneless but houseless; every evening sun set upon a change; every morning dawned upon some new convulsion: in short, the whole political globe quivered as with an earthquake; and who could tell what venerable monument was next to shiver beneath the splendid, frightful, and reposeless heavings of the French volcano? What gave Europe peace, and England safety, amid this palsy of her Princes? Was it not the Landwehr and the Landstrum and the Levy en Masse? Was it not the PEOPLE?—that first and last, and best and noblest, as well as safest security of a virtuous government. It is a glorious lesson; she ought to study it in this hour of safety; but should she not—

> "Oh, wo be to the Prince who rules by fear,
> When danger comes upon him!"

She will adopt it. I hope it from her wisdom; I expect it from her policy; I claim it from her justice; I demand it from her gratitude. She must at length see that there is a gross mistake in the management of Ireland. No wise man ever yet imagined injustice to be his interest; and the minister who thinks he serves a state by upholding the most irritating and the most impious of all monopolies, will one day or other find himself miserably mistaken. This system of persecution is not the way to govern this country; at least to govern it with any happiness to itself, or advantage to its rulers. Centuries have proved its total inefficiency; and if it be continued for centuries, the proofs will be but multiplied. Why, however, should I blame the English people, when I see our own representatives so shamefully negligent of our interest? The other day, for instance, when Mr. Peele introduced, aye, and passed too, his three newly invented penal bills, to the necessity of which, every assizes in Ireland, and as honest a judge as ever dignified or redeemed the ermine, has given the refutation; why was it that no Irish member rose in his place to vindicate his country? Where were the nominal representatives of Ireland? Where were the renegade revilers of the demagogue? Where were the noisy proclaimers of the board? What, was there not one voice to own the country? Was the patriot of 1782 an assenting auditor? Were our hundred *itinerants* mute and motionless—"quite chop-fallen?" or is it only when Ireland is slandered, and her motives misrepresented, and her oppressions are basely and *falsely denied, that* their venal throats are ready

to echo the chorus of ministerial calumny? Oh, I should not have to ask those questions, if in the late contest for this city, you had prevailed, and sent HUTCHINSON into Parliament; he would have risen, though *alone*, as I have often seen him—richer not less in hereditary fame, than in personal accomplishments; the ornament of Ireland as she is, the solitary remnant of what she was. If slander dare asperse her, it would not have done so with impunity. He would have encouraged the timid; he would have shamed the recreant; and though he could not save us from chains, he would at least have shielded us from calumny. Let me hope that his absence shall be but of short duration, and that this city will earn an additional claim to the gratitude of the country, by electing him her representative. I scarcely know him but as a public man; and considering the state to which we are reduced by the apostacy of some, and the ingratitude of others, and venality of more,—I say you should inscribe the conduct of such a man in the manuals of your devotion, and in the primers of your children; but above all, you should act on it yourselves. Let me intreat of you, above all things to sacrifice any personal differences among yourselves, for the great cause in which you are embarked. Remember the contest is for your children, your country, and your God; and remember also, that the day of Irish union will be the natal day of Irish liberty. When your own Parliament (which I trust in heaven we may yet see again) voted you the right of franchise, and the right of purchase, it gave you, if you are not false to yourselves, a certainty of your emancipation.—My friends, farewell! This has been a most unexpected meeting to me; it has been our first—it may be our last. I can never forget the enthusiasm of this reception. I am too much affected by it to make professions; but, believe me, no matter where I may be driven by the whim of my destiny, you shall find me one, in whom change of place shall create no change of principle; one whose memory must perish ere he forgets his country; whose heart must be cold when it beats not for her happiness.

A SPEECH

DELIVERED AT A DINNER GIVEN ON DINAS ISLAND

IN THE LAKE OF KILLARNEY,

ON MR. PHILLIPS' HEALTH BEING GIVEN, TOGETHER WITH THAT OF MR. PAYNE, A YOUNG AMERICAN.

It is not with the vain hope of returning by words the kindnesses which have been literally showered on me during the short period of our acquaintance, that I now interrupt, for a moment, the flow of your festivity. Indeed, it is not necessary; an Irishman needs no requital for his hospitality; its generous impulse is the instinct of his nature, and the very consciousness of the act carries its recompense along with it. But, Sir, there are sensations excited by an allusion in your toast, under the influence of which, silence would be impossible. To be associated with Mr. Payne must be, to any one who regards private virtues and personal accomplishments, a source of peculiar pride; and that feeling is not a little enhanced in me by a recollection of the country to which we are indebted for his qualifications. Indeed, the mention of America has never failed to fill me with the most lively emotions. In my earliest infancy, that tender season when impressions, at once the most permanent and the most powerful, are likely to be excited, the story of her then recent struggle raised a throb in every heart that loved liberty, and wrung a reluctant tribute even from discomfited oppression. I saw her spurning alike the luxuries that would enervate, and the legions that would intimidate; dashing from her lips the poisoned cup of European servitude, and, through all the vicissitudes of her protracted conflict, displaying a magnanimity that defied misfortune, and a moderation that gave new grace to victory. It was the first vision of my childhood; it will descend with me to the grave. But if as a man, I venerate the mention of America, what must be my feelings *towards her as an Irishman*. Never, oh never, while

memory remains, can Ireland forget the home of her emigrant, and the asylum of her exile. No matter whether their sorrows sprung from the errors of enthusiasm, or the realities of suffering —from fancy or infliction; that must be reserved for the scrutiny of those whom the lapse of time shall acquit of partiality. It is for the men of other ages to investigate and record it: but surely it is for the men of every age to hail the hospitality that received the shelterless, and love the feeling that befriended the unfortunate. Search creation round, where can you find a country that presents so sublime a view, so interesting an anticipation? What noble institutions! What a comprehensive policy! What a wise equalization of every political advantage! The oppressed of all countries, the martyrs of every creed, the innocent victim of despotic arrogance or superstitious phrenzy, may there find refuge; his industry encouraged, his piety respected, his ambition animated; with no restraint but those laws which are the same to all, and no distinction but that which his merit may originate. Who can deny that the existence of such a country presents a subject for human congratulation! Who can deny, that its gigantic advancement offers a field for the most rational conjecture! At the end of the very next century, if she proceeds as she seems to promise, what a wondrous spectacle may she not exhibit! Who shall say for what purpose a mysterious Providence may not have designed her! Who shall say that when in its follies or its crimes, the old world may have interred all the pride of its power, and all the pomp of its civilization, human nature may not find its destined renovation in the new! For myself, I have no doubt of it. I have not the least doubt that when our temples and our trophies shall have mouldered into dust—when the glories of our name shall be but the legend of tradition, and the light of our achievements only live in song; philosophy will rise again in the sky of her Franklin, and glory rekindle at the urn of her Washington. Is this the vision of romantic fancy? Is it even improbable? Is it half so improbable as the events, which, for the last twenty years have rolled like successive tides over the surface of the European world, each erasing the impressions that preceded it? Thousands upon thousands, Sir, I know there are, who will consider this supposition as wild and whimsical; but they have dwelt with little reflection *upon the records of* the past. They have but ill observed the

never-ceasing progress of national rise and national ruin. They form their judgment on the deceitful stability of the present hour, never considering the innumerable monarchies and republics, in former days, apparently as permanent, their very existence become now the subjects of speculation—I had almost said of scepticism. I appeal to History! Tell me, thou reverend chronicler of the grave, can all the illusions of ambition realized, can all the wealth of an universal commerce, can all the achievements of successful heroism, or all the establishments of this world's wisdom, secure to empire the permanency of its possessions? Alas, Troy thought so once; yet the land of Priam lives only in song! Thebes thought so once, yet her hundred gates have crumbled, and her very tombs are but as the dust they were vainly intended to commemorate! So thought Palmyra—where is she? So thought Persepolis, and now—

> "Yon waste, where roaming lions howl,
> Yon aisle, where moans the grey-eyed owl,
> Shows the proud Persian's great abode,
> Where sceptered once, an earthly god,
> His power-clad arm controlled each happier clime,
> Where sports the warbling muse, and fancy soars sublime."

So thought the countries of Demosthenes and the Spartan, yet Leonidas's is trampled by the timid slave, and Athens insulted by the servile, mindless, and enervate Ottoman! In his hurried march, Time has but looked at their imagined immortality, and all its vanities, from the palace to the tomb, have, with their ruins, erased the very impression of his footsteps! The days of their glory are as if they had never been; and the island that was then a speck, rude and neglected in the barren ocean, now rivals the ubiquity of their commerce, the glory of their arms, the fame of their philosophy, the eloquence of their senate, and the inspiration of their bards! Who shall say, then, contemplating the past, that England, proud and potent as she appears, may not one day be what Athens is, and the young America yet soar to be what Athens was! Who shall say, when the European column shall have mouldered, and the night of barbarism obscured its very ruins, that that mighty continent may not emerge from the horizon, to rule, for its time, sovereign of the ascendant!

Such, sir, is the natural progress of human operations, and such the unsubstantial mockery of human pride. But I should, perhaps, apologize *for this digression.* The tombs are, at best, a

sad although an instructive subject. At all events, they are ill suited to such an hour as this. I shall endeavour to atone for it, by turning to a theme which tombs cannot inurn, or revolution alter. It is the custom of your board, and a noble one it is, to deck the cup of the gay with the garland of the great; and surely, even in the eyes of its deity, his grape is not the less lovely when glowing beneath the foliage of the palm-tree and the myrtle.—Allow me to add one flower to the chaplet, which, though it sprang in America, is no exotic. Virtue planted it, and it is naturalized every where. I see you anticipate me—I see you concur with me, that it matters very little what immediate spot may be the birth-place of such a man as WASHINGTON. No people can claim, no country can appropriate him; the boon of Providence to the human race, his fame is eternity, and his residence creation. Though it was the defeat of our arms, and the disgrace of our policy, I almost bless the convulsion in which he had his origin. If the heavens thundered and the earth rocked, yet, when the storm passed, how pure was the climate that it cleared; how bright in the brow of the firmament was the planet which it revealed to us! In the production of Washington, it does really appear as if nature was endeavouring to improve upon herself, and that all the virtues of the ancient world were but so many studies preparatory to the patriot of the new. Individual instances no doubt there were; splendid exemplifications of some single qualification. Cæsar was merciful, Scipio was continent, Hannibal was patient; but it was reserved for Washington to blend them all in one, and like the lovely *chef d'œuvre* of the Grecian artist, to exhibit in one glow of associated beauty, the pride of every model, and the perfection of every master. As a General, he marshalled the peasant into a veteran, and supplied by discipline the absence of experience; as a statesman, he enlarged the policy of the cabinet into the most comprehensive system of general advantage; and such was the wisdom of his views, and the philosophy of his counsels, that to the soldier and the statesman he almost added the character of the sage! a conqueror, he was untainted with the crime of blood; a revolutionist, he was free from any stain of treason; for aggression commenced the contest, and his country called him to the command.—Liberty unsheathed his sword, necessity stained, victory returned it. If he had paused here, history might have doubted

what station to assign him, whether at the head of her citizens or her soldiers, her heroes or her patriots. But the last glorious act crowns his career, and banishes all hesitation. Who, like Washington, after having emancipated a hemisphere, resigned its crown, and preferred the retirement of domestic life to the adoration of a land he might be almost said to have created?

> "How shall we rank thee upon glory's page,
> Thou more than soldier, and just less than sage;
> All thou hast been reflects less fame on thee,
> Far less than all thou hast forborne to be!"

Such, Sir, is the testimony of one not to be accused of partiality in his estimate of America. Happy, proud America! the lightnings of heaven yielded to your philosophy! The temptations of earth could not seduce your patriotism!

I have the honour, Sir, of proposing to you as a toast, THE IMMORTAL MEMORY OF GEORGE WASHINGTON.

A SPEECH

DELIVERED AT AN AGGREGATE MEETING OF THE ROMAN CATHOLICS OF THE COUNTY AND CITY OF DUBLIN.

HAVING taken, in the discussions on your question, such humble share as was allotted to my station and capacity, I may be permitted to offer my ardent congratulations at the proud pinnacle on which it this day reposes. After having combated calumnies the most atrocious, sophistries, the most plausible, and perils the most appalling, that slander could invent, or ingenuity devise, or power array against you, I at length behold the assembled rank and wealth and talent of the Catholic body offering to the legislature that appeal which cannot be rejected, if there be a Power in heaven to redress injury, or a spirit on earth to administer justice. No matter what may be the depreciations of faction or of bigotry; this earth never presented a more ennobling spectacle than that of a christian country suffering for her religion with the patience of a martyr, and suing for her liberties with the expostulations of a philosopher; reclaiming the bad by her piety; refuting the bigoted by her practice; wielding the Apostle's weapons in the patriot's cause, and at length, laden with chains and with laurels, seeking from the country she had saved, the constitution she had shielded! Little did I imagine, that in such a state of your cause, we should be called together to counteract the impediments to its success, created not by its enemies, but by those supposed to be its friends. It is a melancholy occasion; but melancholy as it is, it must be met, and met with the fortitude of men struggling in the sacred cause of liberty. I do not allude to the proclamation of your Board; of that Board I never was a member, so I can speak impartially. It contained much talent, some learning, many virtues. It was valuable on that account; but it was doubly valuable as being a vehicle for the individual sentiments of any Catholic, and for the aggregate *sentiments of every* Catholic. Those who seceded from it, do not *remember that, individually*, they are nothing; that as a body,

they are every thing. It is not this wealthy slave, or that titled sycophant, whom the bigots dread, or the parliament respects! No, it is the body, the numbers, the rank, the property, the genius, the perseverance, the education, but, above all, the *Union* of the Catholics. I am far from defending every measure of the Board—perhaps I condemn some of its measures even more than those who have seceded from it; but is it a reason, if a general makes one mistake, that his followers are to desert him, especially when the contest is for all that is dear or valuable? No doubt the Board had its errors. Show me the human institution which has not. Let the man, then, who denounces it, prove himself superior to humanity, before he triumphs in his accusation. I am sorry for its suppression. When I consider the animals who are in office around us, the act does not surprise me; but I confess, even from them, the manner did, and the time chosen did, most sensibly. I did not expect it on the very hour when the news of universal peace was first promulgated, and on the anniversary of the only British monarch's birth, who ever gave a boon to this distracted country.

You will excuse this digression, rendered in some degree necessary. I shall now confine myself exclusively to your resolution, which determines on the immediate presentation of your petition, and censures the neglect of any discussion on it by your advocates during the last session of Parliament. You have a right to demand most fully the reasons of any man who dissents from Mr. Grattan. I will give you mine explicitly. But I shall first state the reasons which he has given for the postponement of your question. I shall do so out of respect to him, if indeed it can be called respect to quote those sentiments, which on their very mention must excite your ridicule. Mr. Grattan presented your petition, and, on moving that it should lie where so many preceding ones have lain, namely, *on the table*, he declared it to be his intention to move for no discussion. Here, in the first place, I think Mr. Grattan wrong; he got that petition, if not on the express, at least on the implied condition of having it immediately discussed. There was not a man at the aggregate meeting at which it was adopted, who did not expect a discussion on the very first opportunity. Mr. Grattan, however, was angry at "suggestions." I do not think Mr. Grattan, of all men, had any right *to be so angry at receiving* that which every English mem-

ber was willing to receive, and was actually receiving from any English corn-factor. Mr. Grattan was also angry at our "violence." Neither do I think *he* had any occasion to be so squeamish at what he calls our *violence*. There was a day, when Mr Grattan would not have spurned our suggestions, and there was also a day when he was fifty-fold more intemperate than any of his oppressed countrymen, whom he now holds up to the English people as so unconstitutionally violent. A pretty way forsooth, for your advocate to commence conciliating a foreign auditory in favour of your petition. Mr. Grattan, however, has fulfilled his own prophecy, that "an oak of the forest is too old to be transplanted at fifty," and our fears that an Irish native would soon loose its raciness in an English atmosphere. "It is not my intention," says he, "to move for a discussion at present." Why? "Great obstacles have been removed." That's his first reason. "I am, however," says he, "still ardent." Ardent! Why it strikes me to be a very novel kind of ardour, which toils till it has removed every impediment, and then pauses at the prospect of its victory! "And I am of opinion," he continues, "that any immediate discussion would be the height of precipitation:" that is, after having removed the impediments, he pauses in his path, declaring he is "*ardent*:" and after centuries of suffering, when you press for a discussion, he protests that he considers you monstrously precipitate! Now is not that a fair translation? Why really if we did not know Mr. Grattan, we should be almost tempted to think that he was quoting from the ministry. With the exception of one or two plain, downright, sturdy, unblushing bigots, who opposed you because you were Christians, and declared they did so, this was the cant of every man who affected liberality. "Oh, I declare," they say, "they may not be cannibals, though they are Catholics; and I would be very glad to vote for them, but this is no *time*." "Oh no," says Bragge Bathurst, "it 's no *time*. What! in time of war! Why it looks like bullying us!" Very well: next comes the peace, and what say our *friends* the opposition? "Oh! I declare peace is no *time*, it looks so like persuading us." For my part, serious as the subject is, it affects me with the very same ridicule with which I see I have so unconsciously affected you. I will tell you a story *of which it reminds* me. It is told of the celebrated Charles Fox, *Far be it from me*, however, to mention that name with levity,

As he was a great man, I revere him; as he was a good man, I love him. He had as wise a head as ever paused to deliberate: he had as sweet a tongue as ever gave the words of wisdom utterance; and he had a heart so stamped with the immediate impress of the Divinity, that its very errors might be traced to the excess of its benevolence. I had almost forgot the story. Fox was a man of genius—of course he was poor. Poverty is a reproach to no man; to such a man as Fox, I think it was a pride: for if *he* chose to traffic with his principles; if *he* chose to gamble with his conscience, how easily might he have been rich? I guessed your answer. It would be hard, indeed, if you did not believe that in England talents might find a purchaser, who have seen in Ireland how easily a blockhead may swindle himself into preferment. Juvenal says that the greatest misfortune attendant on poverty is ridicule. Fox found out a greater—*debt.* The Jews called on him for payment. "Ah, my dear friends," says Fox, "I admit the principle; I owe you money, but what time is this, when I am going upon *business.*" Just so our friends admit the principle; they owe you emancipation, but war's no *time.* Well, the Jews departed just as you did. They returned to the charge: "What: (cries Fox,) is this a *time*, when I am engaged on an appointment?" What! say our friends, is this a *time* when all the world 's at peace? The Jews departed; but the end of it was, Fox, with his secretary, Mr. Hare, who was as much in debt as he was, shut themselves up in garrison. The Jews used to surround his habitation at day-light, and poor Fox regularly put his head out of the window, with this question, 'Gentlemen, are you *Fox*-hunting or *Hare*-hunting this morning?" His pleasantry mitigated the very Jews. "Well, well, Fox, now you have always admitted the principle, but protested against the *time*—we will give you your own *time*, only just fix some final day for our repayment."—"Ah, my dear Moses," replies Fox, "now this is friendly. I will take you at your word; I will fix a day, and as it 's to be a *final* day, what would you think of the day of *judgment?*"—"That will be too busy a day with us."—"Well, well, in order to accommodate all parties, let us settle *the day after.*" Thus it is, between the war inexpediency of Bragge Bathurst, and the peace inexpediency of Mr. Grattan, you may expect your emancipation-bill pretty much about the time that Fox settled for *the payment of his* creditors. Mr. Grattan, how-

ever, though he scorned to take *your* suggestions, took the suggestions of your *friends*. "I have consulted," says he, "my right honourable friends!" Oh, all *friends, all right honourable!* Now this it is to trust the interest of a people into the hands of a *party*. You must know, in parliamentary parlance, these right honourable friends mean a party. There are few men so contemptible, as not to have a party. The minister has his party. The opposition have their party. The *saints*, for there are saints in the House of Commons, *lucus a non lucendo*, the saints have their party. Every one has his party. I had forgotten—*Ireland has no party*. Such are the reasons, if reasons they can be called, which Mr. Grattan has given for the postponement of your question; and I sincerely say, if they had come from any other man, I would not have condescended to have given them an answer. He is indeed reported to have said that he has others in reserve, which he did not think it necessary to detail. If those which he reserved were like those he delivered, I do not dispute the prudence of keeping them to himself; but as we have not the gift of prophecy, it is not easy for us to answer them, until he shall deign to give them to his constituents.

Having dealt thus freely with the alleged reasons for the postponement, it is quite natural that you should require what my reasons are for urging the discussion. I shall give them candidly. They are at once so simple and explicit, it is quite impossible that the meanest capacity amongst you should not comprehend them. I would urge the instant discussion, because discussion has always been of use to you; because, upon every discussion you have gained converts out of doors; and because, upon every discussion within the doors of parliament, your enemies have diminished, and your friends have increased. Now, is not that a strong reason for continuing your discussions? This may be assertion. Aye, but I will prove it. In order to convince you of the argument as referring to the country, I need but point to the state of the public mind now upon the subject, and that which existed in the memory of the youngest. I myself remember the blackest and the basest universal denunciations against your creed, and the vilest anathemas against any man who would grant you an ioto. *Now*, every man affects to be liberal, and the *only* question with some, is the *time* of the concession; with others, *the extent of the* concessions; with many, the nature of the se-

curities you should afford; whilst a great multitude, in which I am proud to class myself, think that your emancipation should be immediate, universal, and unrestricted. Such has been the progress of the human mind *out of doors*, in consequence of the powerful eloquence, argument, and policy elicited by those discussions which your friends now have, for the first time, found out to be precipitate. Now let us see what has been the effect produced *within the doors* of Parliament. For twenty years you were silent, and of course you were neglected. The consequence was most natural. Why should Parliament grant privileges to men who did not think those privileges worth the solicitation? Then rose your *agitators*, as they are called by those bigots who are trembling at the effect of their arguments on the community, and who, as a matter of course, take every opportunity of calumniating them. Ever since that period your cause has been advancing. Take the numerical proportions in the House of Commons on each subsequent discussion. In 1805, the first time it was brought forward in the Imperial legislature, and it was then aided by the powerful eloquence of Fox, there was a majority against even taking your claims into consideration, of no less a number than 212. It was an appalling omen. In 1808, however, on the next discussion, that majority was diminished to 163. In 1810 it decreased to 104. In 1811 it dwindled to 64, and at length in 1812, on the motion of Mr. Canning, and it is not a little remarkable that the first successful exertion in your favour was made by an English member, your enemies fled the field, and you had the triumphant majority to support you of 129! Now, is this not demonstration? What becomes now of those who say discussion has not been of use to you: but I need not have resorted to arithmetical calculation. Men become ashamed of combating with axioms. Truth is omnipotent, and must prevail; it forces its way with the fire and the precision of the morning sun-beam. Vapours may impede the infancy of its progress· but the very resistance that would check only condenses and concentrates it, until at length it goes forth in the fullness of its meridian, all life and sight and lustre, the minutest objects visible in its refulgence. You lived for centuries on the vegetable diet and eloquent silence of this Pythagorean policy; and the consequence was, when you *thought* yourselves mightily dignified, and *mightily interesting, the whole* world was laughing at your phi-

losophy, and sending its aliens to take possession of your birth right. I have given you a good reason for urging your discussion, by having shown you that discussion has always gained you proselytes. But is it the *time?* says Mr. Grattan. Yes, Sir, it is the *time*, peculiarly the time, unless indeed the great question of Irish liberty is to be reserved as a weapon in the hands of a party to wield against the weakness of the British minister. But why should I delude you by talking about *time!* Oh! there will never be a time with BIGOTRY! She has no head, and cannot think; she has no heart, and cannot feel; when she moves, it is in wrath; when she pauses, it is amid ruin; her prayers are curses, her communion is death, her vengeance is eternity, her decalogue is written in the blood of her victims; and if she stoops for a moment from her infernal flight, it is upon some kindred rock to whet her vulture fang for keener rapine, and replume her wing for a more sanguinary desolation! I appeal from this infernal, grave-stalled fury, I appeal to the good sense, to the policy, to the gratitude of England; and I make my appeal peculiarly at this moment, when all the illustrious potentates of Europe are assembled together in the British capital, to hold the great festival of universal peace and universal emancipation. Perhaps when France, flushed with success, fired by ambition, and infuriated by enmity; her avowed aim and universal conquest, her means the confederated resources of the Continent, her guide the greatest military genius a nation fertile in prodigies has produced—a man who seemed born to invest what had been regular, to defile what had been venerable, to crush what had been established, and to create, as if by a magic impulse, a fairy world, peopled by the paupers he had commanded into kings, and based by the thrones he had crumbled in his caprices—perhaps when such a power, so led, so organised, and so incited, was in its noon of triumph, the timid might tremble even at the charge that would save, or the concession that would strengthen.—But now,—her allies faithless, her conquests despoiled, her territory dismembered, her legions defeated, her leader dethroned, and her reigning prince our ally by treaty, our debtor by gratitude, and our alienable friend by every solemn obligation of civilized society,—the objection is our strength, and the obstacle our battlement. Perhaps when the *Pope* was in the power of our enemy, however slender the pre*text, bigotry might* have rested on it. The inference was false

as to Ireland, and it was ungenerous as to Rome. The Irish Catholic, firm in his faith, bows to the Pontiff's spiritual supremacy, but he would spurn the Pontiff's temporal interference. If, with the spirit of an earthly domination, he were to issue tomorrow his despotic mandate, Catholic Ireland with one voice would answer him: "Sire, we bow with reverence to your spiritual mission: the descendant of Saint Peter, we freely acknowledge you the head of our church, and the organ of our creed: but, Sire, if we have a church, we cannot forget that we also have a country; and when you attempt to convert your mitre into a crown, and your crozier into a sceptre, you degrade the majesty of your high delegation, and grossly miscalculate upon our acquiescence. No foreign power shall regulate the allegiance which we owe to our sovereign; it was the fault of our fathers that one Pope forged our fetters; it will be our own, if we allow them to be riveted by another." Such would be the answer of universal Ireland; such was her answer to the audacious menial, who dared to dictate her unconditional submission to an act of Parliament which emancipated by penalties, and redressed by insult. But, Sir, it never would have entered into the contemplation of the Pope to have assumed such an authority. His character was a sufficient shield against the imputation, and his policy must have taught him, that, in grasping at the shadow of a temporal power, he should but risk the reality of his ecclesiastical supremacy. Thus was Parliament doubly guarded against a foreign usurpation. The people upon whom it was to act deprecate its authority, and the power to which it was imputed abhors its ambition; the Pope would not exert it if he could, and the people would not obey it if he did. Just precisely upon the same foundation rested the aspersions which were cast upon your creed. How did experience justify them? Did Lord Wellington find that religious faith made any difference amid the thunder of the battle? Did the Spanish soldier desert his colours because his General believed not in the *real presence?* Did the brave Portuguese neglect his orders to negotiate about mysteries? Or what comparison did the hero draw between the policy of England and the piety of Spain, when at one moment he led the heterodox legions to victory, and the very next was obliged to fly from his own native flag, waving defiance on the walls of Borgos, where *the Irish exile* planted and sustained it? What

must he have felt when in a foreign land he was obliged to command brother against brother, to raise the sword of blood, and drown the cries of nature with the artillery of death? What were the sensations of our hapless exiles, when they recognized the features of their long-lost country? when they heard the accents of the tongue they loved, or caught the cadence of the simple melody which once lulled them to sleep within a mother's arms, and cheered the darling circle they must behold no more? Alas, how the poor banished heart delights in the memory that song associates! He heard it in happier days, when the parents he adored, the maid he loved, the friends of his soul, and the green fields of his infancy were round him; when his labours were illumined with the sun-shine of the heart, and his humble hut was a palace—for it was HOME. His soul is full, his eye suffused, he bends from the battlements to catch the cadence, when his death-shot, sped by a brother's hand, lays him in his grave—the victim of a code calling itself Christian! Who shall say, heart-rending as it is, this picture is from fancy? Has it not occurred in Spain? May it not, at this instant, be acting in America? Is there any country in the universe in which these brave exiles of a barbarous bigotry are not to be found refuting the calumnies that banished and rewarding the hospitality that received them? Yet England, enlightened England, who sees them in every field of the old world and the new, defending the various flags of every faith, supports the injustice of her exclusive constitution, by branding upon them the ungenerous accusation of an exclusive creed! England, the ally of Catholic Portugal, the ally of Catholic Spain, the ally of Catholic France, the Friend of the Pope! England, who seated a Catholic bigot in Madrid! who convoyed a Catholic Braganza to the Brazils! who enthroned a Catholic Bourbon in Paris! who guaranteed a Catholic establishment in Canada! who gave a constitution to Catholic Hanover! England, who searches the globe for Catholic grievances to redress, and Catholic Princes to restore, will not trust the Catholic at home, who spends his blood and treasure in her service! Is this generous? Is this consistent? Is it just? Is it even politic? Is it the act of a wise country to fetter the energies of an entire population? Is it the act of a Christian country *to do it in* the name of God? Is it politic in a government to de*grade part of the* body by which it is supported, or pious to make

PROVIDENCE a party to their degradation? There are societies in England for discountenancing vice; there are Christian associations for distributing the Bible; there are voluntary missions for converting the heathen: but Ireland, the seat of their government, the stay of their empire, their associate by all the ties of nature and of interest, how has she benefited by the gospel of which they boast? Has the sweet spirit of Christianity appeared on our plains in the character of her precepts, breathing the air and robed in the beauties of the world to which she would lead us; with no argument but love, no look but peace, no wealth but piety; her creed comprehensive as the arch of heaven, and her charities bounded but by the circle of creation? Or, has she been let loose amongst us, in form of fury, and in act of demon, her heart festered with the fires of hell, her hands clotted with the gore of earth, withering alike in her repose and in her progress, her path apparent by the print of blood, and her pause denoted by the expanse of desolation? Gospel of Heaven! is this thy herald? God of the universe! is this thy hand-maid? Christian of the ascendancy! how would you answer the disbelieving infidel, if he asked you, should he estimate the Christian doctrine by the Christian practice; if he dwelt upon those periods when the human victim writhed upon the altar of the peaceful Jesus, and the cross, crimsoned with his blood, became little better than a stake to the sacrifice of his votaries; if he pointed to Ireland, where the word of peace was the war-whoop of destruction; where the son was bribed against the father, and the plunder of the parent's property was made a bounty on the recantation of the parent's creed; where the march of the human mind was stayed in his name who had inspired it with reason, and any effort to liberate a fellow-creature from his intellectual bondage was sure to be recompensed by the dungeon or the scaffold; where ignorance was so long a legislative command, and piety legislative crime; where religion was placed as a barrier between the sexes, and the intercourse of nature was pronounced felony by law; where God's worship was an act of stealth, and his ministers sought amongst the savages of the woods that sanctuary which a nominal civilization had denied them; where at this instant conscience is made to blast every hope of genius, and every energy of ambition; and the Catholic who would rise to any *station of trust, must, in the* face of his country, deny the

faith of his fathers; where the preferments of earth are only to be obtained by the forfeiture of Heaven?

> "Unprized are her sons till they learn to betray,
> Undistinguish'd they live if they shame not their sires;
> And the torch that would light them to dignity's way,
> Must be caught from the pile where their country expires!"

How, let me ask, how would the Christian zealot droop beneath this catalogue of Christian qualifications? But, thus it is, when sectarians differ on account of mysteries; in the heat and acrimony of the causeless contest, religion, the glory of one world, and the guide of another, drifts from the splendid circle in which she shone, in the comet-maze of uncertainty and error. The code, against which you petition, is a vile compound of impiety and impolicy: impiety, because it debases in the name of God; impolicy, because it disqualifies under pretence of government. If we are to argue from the services of Protestant Ireland, to the losses sustained by the bondage of Catholic Ireland, and I do not see why we should not, the state which continues such a system is guilty of little less than a political suicide. It matters little where the Protestant Irishman has been employed; whether with Burke, wielding the senate with his eloquence; with Castlereagh, guiding the cabinet with his counsels; with Barry, enriching the arts by his pencil; with Swift, adorning literature by his genius; with Goldsmith or with Moore, softening the heart by their melody; or with Wellington, chaining victory at his car, he may boldly challenge the competition of the world. Oppressed and impoverished as our country is, every muse has cheered, every art adorned, and every conquest crowned her. Plundered, she was not poor, for her character enriched; attainted, she was not titleless, for her services ennobled; literally outlawed into eminence, and fettered into fame, the fields of her exile were immortalized by her deeds, and the links of her chain became decorated by her laurels. Is this fancy, or is it fact? Is there a department in the state in which Irish genius does not possess a predominance? Is there a conquest which it does not achieve, or a dignity which it does not adorn? At this instant, is there a country in the world to which England has not deputed an Irishman as her representative? She has sent Lord Moira to India, Sir Gore Ousely to Ispahan, Lord Stuart to Vienna, Lord Castlereagh to Congress, Sir Henry Wel*lesly to Madrid,* Mr. Canning to Lisbon, Lord Strangford to the *Brazils, Lord* Clancarty to Holland, Lord Wellington to Paris—

all Irishmen! Whether it results from accident or from merit, can there be a more cutting sarcasm on the policy of England! Is it not directly saying to her, "here is a country from one fifth of whose people you depute the agents of your most august delegation, the remaining four fifths of which by your odious bigotry, you incapacitate from any station of office or of trust!" It is adding all that is weak in impolicy to all that is wicked in ingratitude. What is her apology? Will she pretend that the Deity imitates her injustice, and incapacitates the intellect as she has done the creed? After making Providence a pretence for her code, will she also make it a party to her crime, and arraign the universal spirit of partiality in his dispensations? Is she not content with Him as a Protestant God, unless He also consents to become a Catholic demon? But, if the charge were true; if the Irish Catholic were imbruted and debased, Ireland's conviction would be England's crime, and your answer to the bigot's charge should be the bigot's conduct. What, then! is this the result of six centuries of your government? Is this the connection which you called a benefit to Ireland? Have your protecting laws so debased them, that the very privilege of reason is worthless in their possession? Shame! oh, shame! to the government where the people are barbarous? The day is not distant when they made the education of a Catholic a crime; and yet they arraign the Catholic for ignorance! The day is not distant when they proclaimed the celebration of the Catholic worship a felony, and yet they complain that the Catholic is not moral! What folly! Is it to be expected that the people are to emerge in a moment from the stupor of a protracted degradation? There is not perhaps to be traced upon the map of national misfortune, a spot so truly and so tediously deplorable as Ireland. Other lands, no doubt, have had their calamities. To the horrors of revolution, the miseries of despotism, the scourges of anarchy, they have in their turns been subject. But it has been only in their turns; the visitations of wo, though severe, have not been eternal; the hour of probation, or of punishment, has passed away; and the tempest, after having emptied the vial of its wrath, has given place to the serenity of the calm and of the sunshine.—Has this been the case with respect to our miserable country? Is there, save in the visionary world of tradition—is there in the progress, either of record *or recollection, one verdant* spot in the desert of our

annals, where patriotism can find repose, or philanthropy refreshment? Oh, indeed, posterity will pause with wonder on the melancholy page which shall portray the story of a people amongst whom the policy of man, has waged an eternal warfare with the providence of God, blighting into deformity all that was beauteous, and into famine all that was abundant. I repeat, however, the charge to be false. The Catholic mind in Ireland has made advances scarcely to be hoped in the short interval of its partial emancipation. But what encouragement has the Catholic parent to educate his offspring? Suppose he sends his son, the hope of his pride, and the wealth of his heart, into the army; the child justifies his parental anticipation; he is moral in his habits, he is strict in his discipline, he is daring in the field, and temperate at the board, and patient in the camp; the first in the charge, and the last in the retreat; with a hand to achieve, and a head to guide, and temper to conciliate; he combines the skill of Wellington with the clemency of Cæsar and the courage of Turenne—yet he can never rise—he is a *Catholic!*—Take another instance. Suppose him at the bar. He has spent his nights at the lamp, and his days in the forum; the rose has withered from his cheek mid the drudgery of form; the spirit has fainted in his heart mid the analysis of crime; he has foregone the pleasures of his youth and the associates of his heart, and all the fairy enchantments in which fancy may have wrapped him. Alas! for what? Though genius flashed from his eye, and eloquence rolled from his lips; though he spoke with the tongue of Tully, and argued with the learning of Coke, and thought with the purity of Fletcher, he can never rise—he is *a Catholic!* Merciful God! what a state of society is this, in which thy worship is interposed as a disqualification upon thy Providence! Behold, in a word, the effects of the code against which you petition; it disheartens exertion, it disqualifies merit, it debilitates the state, it degrades the Godhead, it disobeys Christianity, it makes religion an article of traffic, and its founder a monopoly; and for ages it has reduced a country, blessed with every beauty of nature, and every bounty of Providence, to a state unparalleled under any constitution professing to be free, or any government pretending to be civilized. To justify this enormity, there is now no argument. Now is *the time to* concede with dignity that which was never denied *without injustice.* Who can tell how soon we may require all the

zeal of our united population to secure our very existence? Who can argue upon the continuance of this calm? Have we not seen the labour of ages overthrown, and the whim of a day erected on its ruins; establishments the most solid, withering at a word, and visions the most whimsical realized at a wish? crowns crumbled, discords confederated, kings become vagabonds, and vagabonds made kings at the capricious phrenzy of a village adventurer? Have we not seen the whole political and moral world shaking as with an earthquake, and shapes the most fantastic and formidable and frightful, heaved into life by the quiverings of the convulsion? The storm has passed over us; England has survived it; if she is wise, her present prosperity will be but the handmaid to her justice; if she is pious, the peril she has escaped will be but the herald of her expiation. Thus much have I said in the way of argument to the enemies of your question. Let me offer an humble opinion to its friends. The first and almost the sole request which an advocate would make to you is, to remain united; rely on it, a divided assault can never overcome a consolidated resistance. I allow that an educated aristocracy, are as a head to the people, without which they cannot think: but then the people are as hands to the aristocracy, without which it cannot act. Concede, then, a little to even each other's prejudices; recollect that individual sacrifice is universal strength; and can there be a nobler altar than the altar of your country? This same spirit of conciliation should be extended even to your enemies. If England will not consider that a brow of suspicion is but a bad accompaniment to an act of grace; if she will not allow that kindness may make those friends whom even oppression could not make foes; if she will not confess that the best security she can have from Ireland is by giving Ireland an interest in her constitution; still, since her power is the shield of her prejudices, you should concede where you cannot conquer; it is wisdom to yield, when it has become hopeless to combat.

There is but one concession which I would never advise, and which, were I a Catholic, I would never make. You will perceive that I allude to any interference with your clergy. That was the crime of Mr. Grattan's security bill. It made the patronage of your religion the ransom for your liberties, and bought *the favour of the crown* by the surrender of the church.

It is a vicious principle; it is the cause of all your sorrows. If there had not been a state-establishment, there would not have been a Catholic bondage. By that incestuous conspiracy between the altar and the throne, infidelity has achieved a more extended dominion than by all the sophisms of her philosophy, or all the terrors of her persecution. It makes God's apostle a court-appendage, and God himself a court-purveyor; it carves the cross into a chair of state, where, with grace on his brow, and gold in his hand, the little perishable puppet of this world's vanity makes Omnipotence a menial to its power, and Eternity a pander to its profits. Be not a party to it. As you have spurned the temporal interference of the Pope, resist the spiritual jurisdiction of the crown. As I do not think that you, on the one hand, could surrender the patronage of your religion to the King without the most unconscientious compromise, so, on the other hand, I do not think the King could ever conscientiously receive it. Suppose he receives it; if he exercises it for the advantage of your church, he directly violates the coronation-oath, which binds him to the exclusive interest of the Church of England; and if he does not intend to exercise it for your advantage, to what purpose does he require from you its surrender? But what pretence has England for this interference with your religion? It was the religion of her most glorious era; it was the religion of her most ennobled patriots; it was the religion of the wisdom that framed her constitution; it was the religion of the valour that achieved it; it would have been to this day the religion of her empire, had it not been for the lawless lust of a murderous adulterer. What right has she to suspect your church? When her thousand sects were brandishing the fragments of their faith against each other, and Christ saw his garment without a seam, a piece of patch-work for every mountebank who figured in the pantomime; when her Babel temple rocked at every breath of her Priestleys and her Paynes, Ireland, proof against the menace of her power, was proof also against the perilous impiety of her example. But if as Catholics you should guard it, the palladium of your creed, not less as Irishmen should you prize it, the relic of your country. Deluge after deluge has desolated her provinces. The monuments of art which escaped the barbarism of one invader, fell beneath the *still more savage* civilization of another. Alone, amid the solitude, *your temple stood like* some majestic monument amid the desert

of antiquity, just in its proportions, sublime in its associations, rich in the virtue of its saints, cemented by the blood of its martyrs, pouring forth for ages the unbroken series of its venerable hierarchy, and only the more magnificent from the ruins by which it was surrounded. Oh! do not for any temporal boon betray the great principles which are to purchase you an eternity! Here, from your very sanctuary,—here, with my hand on the endangered altars of your faith, in the name of that God, for the freedom of whose worship we are so nobly struggling—I conjure you, let no unholy hand profane the sacred ark of your religion; preserve it inviolate; its light is "light from heaven;" follow it through all the perils of your journey; and, like the fiery pillar of the captive Israel, it will cheer the desert of your bondage, and guide to the land of your liberation!

PETITION

REFERRED TO IN THE PRECEDING SPEECH,

DRAWN BY MR. PHILLIPS,

AT THE REQUEST OF THE ROMAN CATHOLICS OF IRELAND

To the Honourable the COMMONS *of the United Kingdom of Great Britain and Ireland, in Parliament assembled:*

The humble Petition of the Roman Catholics of Ireland, whose Names are undersigned on behalf of themselves, and others, professing the Roman Catholic Religion,—SHOWETH,

THAT we, the Roman Catholic people of Ireland, again approach the legislature with a statement of the grievances under which we labour, and of which we most respectfully, but at the same time most firmly solicit the effectual redress. Our wrongs are so notorious, and so numerous, that their minute detail is quite unnecessary, and would indeed be impossible, were it deemed expedient. Ages of persecution on the one hand, and of patience on the other, sufficiently attest our sufferings and our submission. Privations have been answered only by petition, indignities by remonstrance, injuries by forgiveness. It has been a misfortune to have suffered for the sake of our religion; but it has also been a pride to have borne the best testimony to the purity of our doctrine, by the meekness of our endurance.

We have sustained the power which spurned us; we have nerved the arm which smote us; we have lavished our strength, our talent, and our treasures, and buoyed up, on the prodigal effusion of our young blood, the triumphant ARK OF BRITISH LIBERTY.

We approach, then, with confidence, an enlightened legislature: in the name of Nature, we ask our rights as men; in the name of the Constitution, we ask our privileges as subjects; in

the name of God, we ask the sacred protection of unpersecuted piety as Christians.

Are securities required of us? We offer them—the best securities a throne can have—the affections of a people. We offer faith that was never violated, hearts that were never corrupted valour that never crouched. Every hour of peril has proved our allegiance, and every field of Europe exhibits its example.

We abjure all temporal authority, except that of our Sovereign; we acknowledge no civil pre-eminence, save that of our constitution; and, for our lavish and voluntary expenditure, we only ask a reciprocity of benefits.

Separating, as we do, our civil rights from our spiritual duties, we humbly desire that they may not be confounded. We "render unto Cæsar the things that are Cæsar's," but we must also "render unto God the things that are God's." Our church could not descend to claim a state-authority, nor do we ask for it a state-aggrandizement:—its hopes, its powers, and its pretensions, are of another world; and, when we raise our hands most humbly to the state, our prayer is not, that the fetters may be transferred to the hands which are raised for us to Heaven. We would not erect a splendid shrine, even to Liberty, on the ruins of the Temple.

In behalf, then, of five millions of a brave and loyal people, we call upon the legislature to annihilate the odious bondage which bows down the mental, physical, and moral energies of Ireland; and, in the name of that Gospel which breathes charity towards all, we seek freedom of conscience for all the inhabitants of the British empire.

May it therefore please this honourable House to abolish all penal and disabling laws, which in any manner infringe religious liberty, or restrict the free enjoyment of the sacred rights of conscience, within these realms.

And your petitioners will ever pray.

THE

ADDRESS

TO H. R. H. THE PRINCESS OF WALES:

DRAWN BY MR. PHILLIPS, AT THE REQUEST OF THE ROMAN CATHOLICS OF IRELAND.

May it please Your Royal Highness,

We, the Roman Catholic people of Ireland, beg leave to offer our unfeigned congratulations on your providential escape from the conspiracy which so lately endangered both your life and honour—a conspiracy, unmanly in its motives, unnatural in its object, and unworthy in its means—a conspiracy, combining so monstrous an union of turpitude and treason, that it is difficult to say, whether royalty would have suffered more from its success, than human nature has from its conception. Our allegiance is not less shocked at the infernal spirit which would sully the diadem, by breathing on its most precious ornament, the virtue of its wearer, than our best feelings are at the inhospitable baseness, which would betray the innocence of a female in a land of strangers!

Deem it not disrespectful, illustrious Lady, that, from a people proverbially ardent in the cause of the defenceless, the shout of virtuous congratulation should receive a feeble echo. Our harp has long been unused to tones of gladness, and our hills but faintly answer the unusual accent. Your heart, however, can appreciate the silence inflicted by suffering; and ours, alas, feels but too acutely that the commiseration is sincere which flows from sympathy.

Let us hope that, when congratulating virtue in your royal person, on her signal triumph over the perjured, the profligate, and the corrupt, we may also rejoice in the completion of its *consequences.* Let us hope that the society of your only child *again solaces your* dignified retirement; and that, to the misfor-

tune of being a widowed wife, is not added the pang of being a childless mother!

But if, Madam, our hopes are not fulfilled; if, indeed, the cry of an indignant and unanimous people is disregarded; console yourself with the reflection, that, though your exiled daughter may not hear the precepts of virtue from your lips, she may at least study the practice of it in your example.

A SPEECH

DELIVERED BY MR. PHILLIPS,

AT A PUBLIC DINNER GIVEN TO HIM BY THE FRIENDS OF CIVIL AND RELIGIOUS LIBERTY IN LIVERPOOL.

Believe me, Mr. Chairman, I feel too sensibly the high and unmerited compliment you have paid me, to attempt any other return than the simple expression of my gratitude; to be just, I must be silent; but though the tongue is mute, my heart is much more than eloquent. The kindness of friendship, the testimony of any class, however humble, carries with it no trifling gratification: but, stranger as I am, to be so distinguished in this great city, whose wealth is its least recommendation; the emporium of commerce, liberality, and public spirit; the birth-place of talent; the residence of integrity; the field where freedom seems to have rallied the last allies of her cause, as if, with the noble consciousness that, though patriotism could not wreathe the laurel round her brow, genius should at least raise it over her ashes; to be so distinguished, Sir, and in such a place, does, I confess, inspire me with a vanity which even a sense of my unimportance cannot entirely silence. Indeed, sir, the ministerial critics of Liverpool were right. I have no claim to this enthusiastic welcome. But I cannot look upon this testimonial so much as a tribute to myself, as an omen to that country with whose fortunes the dearest sympathies of my soul are intertwined. Oh yes, I do foresee when she shall hear with what courtsey her most pretentionless advocate has been treated—how the same wind that wafts her the intelligence, will revive that flame within her, which the blood of ages has not been able to extinguish. It may be a delusive hope, but I am glad to grasp at any phantom that flits across the solitude of that country's desolation. On this subject you can scarcely be ignorant, for you have an Irishman *resident* amongst you, whom I am proud to call my friend; whose *fidelity to Ireland* no absence can diminish; who has at once the

honesty to be candid, and the talent to be convincing. I need scarcely say I allude to Mr. Casey. I knew, sir, the statue was too striking to require a name upon the pedestal. Alas, Ireland has little now to console her, except the consciousness of having produced such men. It would be a reasonable adulation in me to deceive you. Six centuries of base misgovernment, of causeless, ruthless, and ungrateful persecution, have now reduced that country to a crisis, at which I know not whether the friend of humanity has most cause to grieve or rejoice; because I am not sure that the same feeling which prompts the tear at human sufferings, ought not to triumph in that increased infliction which may at length tire them out of endurance. I trust in God a change of system may in time anticipate the results of desperation; but you may quite depend on it, a period is approaching when, if penalty does not pause in the pursuit, patience will turn short on the pursuer. Can you wonder at it? Contemplate Ireland during any given period of England's rule, and what a picture does she exhibit! Behold her created in all the prodigality of nature; with a soil that anticipates the husbandman's desires; with harbours courting the commerce of the world; with rivers capable of the most effective navigation; with the ore of every metal struggling through her surface; with a people, brave, generous, and intellectual, literally forcing their way through the disabilities of their own country into the highest stations of every other, and well rewarding the policy that promotes them, by achievements the most heroic, and allegiance without a blemish. How have the successive governments of England demeaned themselves to a nation, offering such an accumulation of moral and political advantages! See it in the state of Ireland at this instant; in the universal bankruptcy that overwhelms her; in the loss of her trade; in the annihilation of her manufactures; in the deluge of her debt; in the divisions of her people; in all the loathsome operations of an odious, monopolizing, hypocritical fanaticism on the one hand, wrestling with the untiring but natural reprisals of an irritated population on the other! It required no common ingenuity to reduce such a country to such a situation. But it has been done; man has conquered the beneficence of the Deity; his harpy touch has changed the viands to corruption; and that land, which you might have possessed in health *and wealth and vigour, to* support you in your hour of



need, now writhes in the agonies of death, unable even to lift the shroud with which famine and fatuity try to encumber her convulsion. This is what I see a pensioned press denominates tranquillity. Oh, wo to the land threatened with such tranquillity; *solitudinem faciunt, pacem appellant;* it is not yet the tranquillity of solitude; it is not yet the tranquillity of death; but if you would know what it is, go forth in the silence of creation, when every wind is hushed, and every echo mute, and all nature seems to listen in dumb and terrified and breathless expectation; go forth in such an hour, and see the terrible tranquillity by which you are surrounded! How could it be otherwise; when for ages upon ages invention has fatigued itself with expedients for irritation; when, as I have read with horror in the progress of my legal studies, the homicide of a "mere Irishman" was considered justifiable; and when his ignorance was the origin of all his crimes, his education was prohibited *by Act of Parliament!*—when the people were worm-eaten by the odious vermin which a church and state adultery had spawned; when a bad heart and brainless head where the fangs by which every foreign adventurer and domestic traitor fastened upon office; when the property of the native was but an invitation to plunder, and his non-acquiescence the signal for confiscation; when religion itself was made the odious pretence for every persecution, and the fires of hell were alternately kindled with the cross, and quenched in the blood of its defenceless followers! I speak of times that are passed: but can their recollections, can their consequences be so readily eradicated. Why, however, should I refer to periods that are distant? Behold, at this instant, five millions of her people disqualified on account of their faith, and that by a country professing freedom! and that under a government calling itself christian! You (when I say you, of course I mean, not the high-minded people of England, but the men who misgovern us both) seem to have taken out a roving commission in search of grievances abroad, while you overlook the calamities at your own door, and of your own infliction. You traverse the ocean to emancipate the African; you cross the line to convert the Hindoo; you hurl your thunder against the savage Algerine; but your own brethren at home, who speak the same tongue, acknowledge the same King, and kneel to the same God, cannot *get one visit from your itinerant humanity!* Oh, such a system

is almost too abominable for a name; it is a monster of impiety, impolicy, ingratitude, and injustice! The pagan nations of antiquity scarcely acted on such barbarous principles. Look to ancient Rome, with her sword in one hand and her constitution in the other, healing the injuries of conquest with the embrace of brotherhood, and wisely converting the captive into the citizen. Look to her great enemy, the glorious Carthaginian, at the foot of the Alps, ranging his prisoners round him, and by the politic option of captivity or arms, recruiting his legions with the very men whom he had literally conquered into gratitude! They laid their foundations deep in the human heart, and their success was proportionate to their policy. You complain of the violence of the Irish Catholic: can you wonder he is violent? It is the consequence of your own infliction—

> "The flesh will quiver where the pincers tear,
> The blood will follow where the knife is driven."

Your friendship has been to him worse than hostility; he feels its embrace but by the pressure of his fetters! I am only amazed he is not more violent. He fills your exchequer, he fights your battles, he feeds your clergy from whom he derives no benefit, he shares your burdens, he shares your perils, he shares every thing except your privileges: *can you wonder he is violent?* No matter what his merit, no matter what his claims, no matter what his services; he sees himself a nominal subject, and a real slave; and his children, the heirs, perhaps of his toils, perhaps of his talents, certainly of his disqualifications—*can you wonder he is violent?* He sees every pretended obstacle to his emancipation vanished; Catholic Europe your ally, the Bourbon on the throne, the Emperor a captive, the Pope a friend, the aspersions on his faith disproved by his allegiance to you against, alternately, every Catholic potentate in Christendom, and he feels himself branded with hereditary degradation—*can you wonder, then, that he is violent?* He petitioned humbly; his tameness was construed into a proof of apathy. He petitioned boldly; his remonstrance was considered as an impudent audacity. He petitioned in peace; he was told it was *not the time* He petitioned in war; he was told it was *not the time.* A strange interval, a prodigy in politics, a pause between peace and war, which appeared to be just made for him, arose; I allude to the period between *the retreat of Louis* and the restoration of Do-

naparte; he petitioned then, and he was told it was *not the time.* Oh, shame! shame! shame! I hope he will petition no more to a parliament so equivocating. However, I am not sorry they did so equivocate, because I think they have suggested one common remedy for the grievances of both countries, and that remedy is, a REFORM OF THAT PARLIAMENT. Without that, I plainly see, there is no hope for Ireland, there is no salvation for England; they will act towards you as they have done towards us; they will admit your reasoning, they will admire your eloquence, and they will prove their sincerity by a strict perseverance in the impolicy you have exposed, and the profligacy you have deprecated. Look to England at this moment. To what a state have they not reduced her! Over this vast island, for whose wealth the winds of Heaven seemed to blow, covered as she once was with the gorgeous mantle of successful agriculture, all studded over with the gems of art and manufacture, there is now scarce an object but industry in rags, and patience in despair: the merchant without a ledger, the fields without a harvest, the shops without a customer, the Exchange deserted, and the Gazette crowded, form the most heart-rending comments on that nefarious system, in support of which, peers and contractors, stock-jobbers and sinecurists, in short, the whole trained, collared, pampered, and rapacious pack of ministerial beagles, have been, for half a century, in the most clamorous and discordant uproar! During all this misery how are the pilots of the state employed? Why, in feeding the bloated mammoth of sinecure! in weighing the farthings of some underling's salary! in preparing Ireland for a garrison, and England for a poor-house! in the structure of Chinese palaces! the decoration of dragoons, and the erection of public buildings! Oh, it's easily seen we have a saint in the Exchequer! he has studied Scripture to some purpose! the famishing people cry out for *bread,* and the scriptural minister gives them *stones!* Such has been the result of the blessed Pitt system, which amid oceans of blood, and eight hundred millions expenditure, has left you, after all your victories, a triumphant dupe, a trophied bankrupt. I have heard before of states ruined by the visitations of Providence, devastated by famine, wasted by fire, overcome by enemies; but never until now did I see a state like England, impoverished by her spoils, and *conquered by her successes*! She has fought the fight of Europe;

she has purchased all its *coinable blood;* she has subsidized all its dependencies in their own cause; she has conquered by sea, she has conquered by land; she has got peace, and, of course, or the Pitt apostles would not have made peace, she has got her "indemnity for the past, and security for the future;" and here she is, after all her vanity and all her victories, surrounded by desolation, like one of the pyramids of Egypt; amid the grandeur of the desert, full of magnificence and death, at once a trophy and a tomb!

The heart of any reflecting man must burn within him, when he thinks that the war, thus sanguinary in its operations, and confessedly ruinous in its expenditure, was even still more odious in its principle! It was a war avowedly undertaken for the purpose of forcing France out of her undoubted right of choosing her own monarch; a war which uprooted the very foundations of the English constitution; which libelled the most glorious era in our national annals; which declared tyranny eternal, and announced to the people, amid the thunder of artillery, that, no matter how aggrieved, their only allowable attitude was that of supplication; which, when it told the French reformer of 1793, that his defeat was just, told the British reformer of 1688, his triumph was treason, and exhibited to history, the terrific farce of a Prince of the House of Brunswick, the creature of the Revolution, OFFERING A HUMAN HECATOMB UPON THE GRAVE OF JAMES THE SECOND! What else have you done? You have succeeded indeed in dethroning Napoleon, and you have dethroned a monarch, who, with all his imputed crimes and vices, shed a splendour around royalty, too powerful for the feeble vision of legitimacy even to bear. He had many faults; I do not seek to palliate them. He deserted his principles; I rejoice that he has suffered. But still let us be generous even in our enmities. How grand was his march! How magnificent his destiny! Say what we will, Sir, he will be the land-mark of our times in the eye of posterity. The goal of other men's speed was his starting-post; crowns were his play-things, thrones his footstool; he strode from victory to victory; his path was "a plane of continued elevations." Surpassing the boast of the too confident Roman, he but stamped upon the earth, and not only armed men, but states and dynasties, and arts and sciences, all that mind could imagine, or industry produce, *started up, the creation* of enchantment. He has

fallen—as the late Mr. Whitebread said, "you made him and he unmade himself"—his own ambition was his glorious conqueror. He attempted, with a sublime audacity, to grasp the fires of Heaven, and his heathen retribution has been the vulture and the rock! I do not ask what you have gained by it; because, in place of gaining any thing, you are infinitely worse than when you commenced the contest! But what have you done for Europe? What have you achieved for man? Have morals been ameliorated? Has liberty been strengthened? Has any one improvement in politics or philosophy been produced? Let us see how. You have restored to Portugal a prince of whom we know nothing, except that, when his dominions were invaded, his people distracted, his crown in danger, and all that could interest the highest energies of man at issue, he left his cause to be combated by foreign bayonets, and fled, with a dastard precipitation to the shameful security of a distant hemisphere. You have restored to Spain a wretch of even worse than proverbial princely ingratitude; who filled his dungeons, and fed his rack with the heroic remnant that braved war, and famine, and massacre beneath his banners; who rewarded patriotism with the prison, fidelity with the torture, heroism with the scaffold, and piety with the inquisition: whose royalty was published by the signature of his death-warrants, and whose religion evaporated in the *embroidering of petticoats for the Blessed Virgin!* You have forced upon France a family to whom misfortune could teach no mercy, or experience wisdom; vindictive in prosperity, servile in defeat, timid in the field, vacillating in the cabinet; suspicion amongst themselves, discontent amongst their followers; their memories tenacious but of the punishments they had provoked; their piety active but in subserviency to their priesthood; and their power passive but in the subjugation of their people! Such are the dynasties you have *conferred* on Europe. In the very act, that of enthroning three individuals of the same family, you have committed in politics a capital error. But Providence has countermined the ruin you were preparing; and whilst the impolicy prevents the chance, their impotency precludes the danger of a coalition. As to the rest of Europe, how has it been ameliorated? What solitary benefit have the "deliverers" conferred? They *have partitioned* the states of the feeble to feed the rapacity of *the powerful;* and after having alternately adored and deserted

Napoleon, they have wreaked their vengeance on the noble, but unfortunate fidelity that spurned their example. Do you want proofs; look to Saxony, look to Genoa, look to Norway, but, above all, to Poland! that speaking monument of regal murder and legitimate robbery—

> O! bloodiest picture in the book of time—
> Sarmatia fell—unwept—without a crime!

Here was an opportunity to recompense that brave, heroic, generous, martyred, and devoted people; here was an opportunity to convince Jacobinism that crowns and crimes were not, of course, co-existent, and that the highway rapacity of one generation might be atoned by the penitential retribution of another! Look to Italy; parcelled out to temporizing Austria—the land of the muse, the historian, and the hero; the scene of every classic recollection; the sacred fane of antiquity, where the genius of the world weeps and worships, and the spirits of the past start into life at the inspiring pilgrimage of some kindred Roscoe. You do yourselves honour by this noble, this natural enthusiasm. Long may you enjoy the pleasure of possessing—never can you lose the pride of having produced the scholar without pedantry, the patriot without reproach, the Christian without superstition, the man without a blemish! It is a subject I could dwell on with delight for ever. How painful our transition to the disgusting path of the deliverers. Look to Prussia, after fruitless toil and wreathless triumphs, mocked with the promise of a visionary constitution. Look to France, chained and plundered, weeping over the tomb of her hopes and her heroes. Look to England, eaten by the cancer of an incurable debt, exhausted by poor rates, supporting a civil list of near a million and a half, annual amount, guarded by a standing army of 149,000 men, misrepresented by a House of Commons, ninety of whose members in places and pensions derive 200,000*l.* in yearly emoluments from the minister, mocked with a military peace, and girt with the fortifications of a war-establishment! Shades of heroic millions these are thy achievements! Monster of Legitimacy, this is thy consummation! The past is out of power, it is high time to provide against the future. Retrenchment and reform are now become not only expedient for our prosperity, but necessary to our very existence. Can any man of sense say that the present

system should continue? What! when war and peace have alternately thrown every family in the empire into mourning and poverty, shall the fattened tax-gatherer extort the starving manufacturer's last shilling, to swell the unmerited and enormous sinecure of some wealthy pauper? Shall a borough-mongering faction convert what is misnamed the National Representation into a mere instrument for raising the supplies which are to gorge its own venality? Shall the mock dignitaries of Whigism and Toryism lead their hungry retainers to contest the profits of an alternate ascendency over the prostrate interest of a too generous people? These are questions which I blush to ask, which I shudder to think must be either answered by the parliament or the people. Let our rulers prudently avert the interrogation. We live in times when the slightest remonstrance should command attention, when the minutest speck that merely dots the edge of the political horizon, may be the car of the approaching spirit of the storm! Oh! they are times whose omen no fancied security can avert; times of the most awful and portentous admonition. Establishments the most solid, thrones the most ancient, coalitions the most powerful, have crumbled before our eyes; and the creature of a moment robed, and crowned, and sceptred, raised his fairy creation on their ruins! The warning has been given; may it not have been given in vain!

I feel, Sir, that the magnitude of the topics I have touched, and the imminency of the perils which seem to surround us have led me far beyond the limits of a convivial meeting. I see I have my apology in your indulgence—but I cannot prevail on myself to trespass farther. Accept, again, Gentlemen, my most grateful acknowledgements. Never, never, can I forget this day: in private life it shall be the companion of my solitude: and if, in the caprices of that fortune which will at times degrade the high and dignify the humble, I should hereafter be called to any station of responsibility, I think I may at least fearlessly promise the friends who thus crowd around me, that no act of mine shall ever raise a blush at the recollection of their early encouragement. I hope, however, the benefit of this day will not be confined to the humble individual you have *so honoured;* I hope it will cheer on the young aspirants after

virtuous fame in both our countries, by proving to them, that however, for the moment, envy, or ignorance, or corruption, may depreciate them, there is a reward in store for the man who thinks with integrity and acts with decision. Gentlemen, you will add to the obligations you have already conferred, by delegating to me the honour of proposing to you the health of a man, whose virtues adorn, and whose talents powerfully advocate our cause; I mean the health of your worthy Chairman, Mr. SHEPHERD.

SPEECH OF MR. PHILLIPS

IN THE CASE OF

GUTHRIE *v.* STERNE,

DELIVERED IN THE COURT OF COMMON PLEAS, DUBLIN

My Lord and Gentlemen,—In this case I am counsel for the plaintiff, who has deputed me, with the kind concession of my much more efficient colleagues, to detail to you the story of his misfortunes. In the course of a long friendship which has existed between us, originating in mutual pursuits, and cemented by our mutual attachments, never, until this instant, did I feel any thing but pleasure in the claims which it created, or the duty which it imposed. In selecting me, however, from this bright array of learning and of eloquence, I cannot help being pained at the kindness of a partiality which forgets its interest in the exercise of its affection, and confides the task of practised wisdom to the uncertain guidance of youth and inexperience. He has thought, perhaps, that truth needed no set phrase of speech; that misfortune should not veil the furrows which its tears had burned; or hide, under the decorations of an artful drapery, the heart-rent heavings with which its bosom throbbed. He has surely thought that, by contrasting mine with the powerful talents selected by his antagonist, he was giving you a proof that the appeal he made was to your reason, not to your feelings—to the integrity of your hearts, not the exasperation of your passions. Happily, however, for him, happily for you, happily for the country, happily for the profession, on subjects such as this, the experience of the oldest amongst us is but slender; deeds such as this are not indigenous to an Irish soil, or naturalized beneath an Irish climate. We hear of them, indeed, as we do of the earthquakes that convulse, or the pestilence that infects less favoured *regions; but* the record of the calamity is only read with the *generous scepticism* of innocence, or an involuntary thanksgiving

to the Providence that has preserved us. No matter how we may have graduated in the scale of nations, no matter with what wreath we may have been adorned, or what blessings we may have been denied; no matter what may have been our feuds, our follies, or our misfortunes; it has at least been universally conceded, that our hearths were the home of the domestic virtues, and that love, honour, and conjugal fidelity, were the dear and indisputable deities of our household! around the fire-side of the Irish hovel, hospitality circumscribed its sacred circle; and a provision to punish, created a suspicion of the possibility of its violation. But of all the ties that bound—of all the bounties that blessed her—Ireland most obeyed, most loved, most reverenced the nuptial contract. She saw it the gift of Heaven, the charm of earth, the joy of the present, the promise of the future, the innocence of enjoyment, the chastity of passion, the sacrament of love; the slender curtain that shades the sanctuary of her marriage-bed, has in its purity the splendour of the mountain-snow, and for its protection the texture of the mountain-adamant. Gentlemen, that national sanctuary has been invaded; that venerable divinity has been violated; and its tenderest pledges torn from their shrine, by the polluted rapine of a kindless, heartless, prayerless, remorseless adulterer! To you—religion defiled, morals insulted, law despised, public order foully violated, and individual happiness wantonly wounded, make their melancholy appeal. You will hear the facts with as much patience as indignation will allow.—I will myself ask of you to adjudge them with as much mercy as justice will admit.

The Plaintiff in this case is JOHN GUTHRIE; by birth, by education, by profession, and better than all, by practice and by principles, a *gentleman*. Believe me, it is not from the commonplace of advocacy, or from the blind partiality of friendship that I say of him, that whether considering the virtues that adorn life, or the blandishments that endear it, he has few superiors. Surely, if a spirit that disdained dishonour, if a heart that knew not guile, if a life above reproach, and a character beyond suspicion, could have been a security against misfortunes, his lot must have been happiness. I speak in the presence of that profession to which he was an ornament, and with whose members his manhood has been familiar; and I say of him, with a confidence that *defies refutation, that*, whether we consider him in

his private or his public station, as a man or a lawyer, there never breathed that being less capable of exciting enmity towards himself, or of offering, even by implication, an offence to others. If he had a fault, it was, that, above crime, he was above suspicion; and to that noblest error of a noble nature he has fallen a victim. Having spent his youth in the cultivation of a mind which must have one day led him to eminence, he became a member of the profession by which I am surrounded. Possessing, as he did, a moderate independence, and looking forward to the most flattering prospects, it was natural for him to select amongst the other sex, some friend who should adorn his fortunes, and deceive his toils. He found such a friend, or thought he found her, in the person of Miss Warren, the only daughter of an eminent solicitor. Young, beautiful, and accomplished, she was "adorned with all that earth or heaven could bestow to make her amiable." Virtue never found a fairer temple; beauty never veiled a purer sanctuary; the graces of her mind retained the admiration which her beauty had attracted; and the eye, which her charms fired, became subdued and chastened in the modesty of their association. She was in the dawn of life, with all its fragrance round her, and yet so pure, that even the blush which sought to hide her lustre, but disclosed the vestal deity that burned beneath it. No wonder an adoring husband anticipated all the joys this world could give him; no wonder that the parental eye, which beamed upon their union, saw, in the perspective, an old age of happiness, and a posterity of honour. Methinks I see them at the sacred altar, joining those hands which Heaven commanded none should separate, repaid for many a pang of anxious nurture by the sweet smile of filial piety; and in the holy rapture of the rite, worshiping the power that blessed their children, and gave them to hope their names should live hereafter. It was virtue's vision! None but fiends could envy it. Year after year confirmed the anticipation; four lovely children blessed their union. Nor was their love the summer passion of prosperity; misfortune proved, afflictions chastened it. Before the mandate of that mysterious Power, which will at times despoil the paths of innocence, to decorate the chariot of triumphant villany, my client had to bow in silent resignation. He owed his adversity to the benevolence of his spirit; he "went security for friends;" those friends deceived him, and

he was obliged to seek in other lands, that safe asylum which his own denied him. He was glad to accept an offer of professional business in Scotland during his temporary embarrassment. With a conjugal devotion, Mrs. Guthrie accompanied him; and in her smile the soil of a stranger was a home, the sorrows of adversity were dear to him.—During their residence in Scotland, a period of about a year, you will find they lived as they had done in Ireland, and as they continued to do until this calamitous occurrence, in a state of uninterrupted happiness. You shall hear, most satisfactorily, that their domestic life was unsullied and undisturbed. Happy at home, happy in a husband's love, happy in her parents' fondness, happy in the children she had nursed, Mrs. Guthrie carried into every circle—and there was no circle in which her society was not courted—that cheerfulness which never was a companion of guilt, or a stranger to innocence. My client saw her the pride of his family, the favourite of his friends,—at once the organ and ornament of his happiness. His ambition awoke, his industry redoubled; and that fortune, which though for a season it may frown, never totally abandons probity and virtue, had begun to smile on him. He was beginning to rise in the ranks of his competitors, and rising with such a character, that emulation itself rather rejoiced than envied. It was at this crisis, in this, the noon of his happiness, and day-spring of his fortune, that, to the ruin of both, the Defendant became acquainted with his family. With the serpent's wile, and the serpent's wickedness, he stole into the Eden of domestic life, poisoning all that was pure, polluting all that was lovely, defying God, destroying man; a demon in the disguise of virtue, a herald of hell in the paradise of innocence. His name, Gentlemen, is WILLIAM PETER BAKER DUNSTANVILLE STERNE; one would think he had epithets enough, without adding to them the title of *Adulterer*. Of his character I know but little, and I am sorry I know so much. If I am instructed rightly, he is one of those vain and vapid coxcombs, whose vices tinge the frivolity of their follies with something of a more odious character than ridicule—with just head enough to contrive crime, but not heart enough to feel for its consequences; one of those fashionable insects, that folly has painted, and fortune plumed, for the annoyance of *our* atmosphere; dangerous alike in their *torpidity and their animation*; infesting where they fly,

and poisoning where they repose. It was through the introduction of Mr. Fallon, the son of a most respectable lady, then resident in Temple-street, and a near relative of Mr. Guthrie, that the defendant and this unfortunate woman first became acquainted: to such an introduction the shadow of a suspicion could not possibly attach. Occupied himself in his professional pursuits, my client had little leisure for the amusement of society; however, to the protection of Mrs. Fallon, her son, and daughters, moving in the first circles, unstained by any possible imputation, he without hesitation intrusted all that was dear to him. No suspicion could be awakened as to any man to whom such a female as Mrs. Fallon permitted an intimacy with her daughters: while at her house then, and at the parties which it originated the defendant and Mrs. Guthrie had frequent opportunities of meeting. Who could have suspected, that, under the very roof of virtue, in the presence of a venerable and respected matron, and of that innocent family, whom she had reared up in the sunshine of her example, the most abandoned profligate could have plotted his iniquities! Who would not rather suppose, that, in the rebuke of such a presence, guilt would have torn away the garland from its brow, and blushed itself into virtue. But the depravity of this man was of no common dye; the asylum of innocence was selected only as the sanctuary of his crimes; and the pure and the spotless chosen as his associates, because they would be more unsuspected subsidiaries to his wickedness. Nor were his manner and his language less suited than his society to the concealment of his objects. If you believed himself, the sight of suffering affected his nerves; the bare mention of immorality smote upon his conscience; an intercourse with the continental courts had refined his mind into a painful sensibility to the barbarisms of Ireland? and yet an internal tenderness towards his native land so irresistibly impelled him to improve it by his residence, that he was a hapless victim to the excess of his feelings!—the exquisiteness of his polish!—and the excellence of his patriotism! His English estates, he said, amounted to about 10,000*l.* a year; and he retained in Ireland only a trifling 3000*l.* more, as a kind of trust for the necessities of its inhabitants!—In short, according to his own description, he was in religion a *saint, and in morals* a stoic—a sort of wandering philanthropist! *making, like the Sterne*, who, he confessed, had the honour of his

name and his connection, a *Sentimental Journey* in search of objects over whom his heart might weep, and his sensibility expand itself! How happy it is, that, of the philosophic profligate only retaining the vices and the name, his rashness has led to the arrest of crimes, which he had all his turpitude to commit, without any of his talents to embellish.

It was by arts such as I have alluded to—by pretending the most strict morality, the most sensitive honour, the most high and undeviating principles of virtue,—that the defendant banished every suspicion of his designs. As far as appearances went, he was exactly what he described himself. His pretensions to morals he supported by the most reserved and respectful behaviour: his hand was lavish in the distribution of his charities; and a splendid equipage, a numerous retinue, a system of the most profuse and prodigal expenditure, left no doubt as to the reality of his fortune. Thus circumstanced, he found an easy admittance to the house of Mrs. Fallon, and there he had many opportunities of seeing Mrs. Guthrie; for between his family and that of so respectable a relative as Mrs. Fallon, my client had much anxiety to increase the connection. They visited together some of the public amusements; they partook of some of the fetes in the neighbourhood of the metropolis; but upon every occasion Mrs. Guthrie was accompanied by her own mother, and by the respectable females of Mrs. Fallon's family. I say upon *every* occasion: and I challenge them to produce one single instance of those innocent excursions, upon which the slanders of an interested calumny have been let loose, in which this unfortunate lady was not matronised by her female relatives, and those some of the most spotless characters in society. Between Mr. Guthrie and the defendant, the acquaintance was but slight. Upon one occasion alone they dined together; it was at the house of the plaintiff's father-in-law; and that you may have some illustration of the defendant's character, I shall briefly instance his conduct at this dinner. On being introduced to Mr. Warren, he apologized for any deficiency of etiquette in his visit, declaring that he had been seriously occupied in arranging the affairs of his lamented father, who, though tenant for life, had contracted debts to an enormous amount. He had already paid upwards of 10,000*l.* which honour and not law compelled him to discharge; as, sweet *soul*! *he could not bear* that any one should suffer un-

justly by his family! His subsequent conduct was quite consistent with this hypocritical preamble: at dinner, he sat at a distance from Mrs. Guthrie; expatiated to her husband upon matters of morality; entering into a high-flown panegyric on the virtues of domestic life, and the comforts of connubial happiness. In short, had there been any idea of jealousy, his manner would have banished it; and the mind must have been worse than sceptical, which would refuse its credence to his *surface* morality. Gracious God! when the heart once admits guilt as its associate, how every natural emotion flies before it! Surely, surely, here was a scene to reclaim, if it were possible, this remorseless defendant. Admitted to her father's table under the shield of hospitality, he saw a young and lovely female surrounded by her parents, her husband, and her children; the prop of those parents' age; the idol of that husband's love; the anchor of those children's helplessness; the sacred orb of their domestic circle; giving their smile its light, and their bliss its being; robbed of whose beams, the little lucid world of their home must become chill, uncheered, and colourless for ever. He saw them happy, he saw them united; blessed with peace, and purity, and profusion; throbbing with sympathy and throned in love; depicting the innocence of infancy, and the joys of manhood before the venerable eye of age, as if to soften the farewell of one world by the pure and pictured anticipation of a better. Yet, even there, hid in the very sun-beam of that happiness, the demon of its destined desolation lurked. Just Heaven! of what materials was that heart composed, which could meditate coolly on the murder of such enjoyments—which innocence could not soften, nor peace propitiate, nor hospitality appease; but which, in the very beam and bosom of its benefaction, warmed and excited itself into a more vigorous venom? Was there no sympathy in the scene? Was there no remorse at the crime? Was there no horror at its consequences?

> "Were honour, virtue, conscience, all exiled!
> Was there no pity, no relenting ruth,
> To show their parents fondling o'er their child,
> Then paint the ruined pair, and their distraction wild!" BURNS.

No! no! He was at that instant planning their destruction; and even within four short days he deliberately reduced those parents *to childlessness*, that husband to widowhood, those smiling infants *to anticipate orphanage*, and that peaceful, hospitable, confiding

family, to helpless, hopeless, irremediable ruin!—Upon the first day of the ensuing July, Mr. Guthrie was to dine with the Connaught bar, at the hotel of Portobello. It is a custom, I am told, with the gentlemen of that association, to dine together previous to the circuit; of course my client could not have decorously absented himself. Mrs. Guthrie appeared a little feverish, and he requested that, on his retiring, she would compose herself to rest; she promised him she would; and when he departed, somewhat abruptly, to put some letters in the post-office, she exclaimed, "What! John, are you going to leave me thus?" He returned, and she kissed him. They seldom parted, even for any time, without that token of affection. I am thus minute, gentlemen, that you may see, up to the last moment, what little cause the husband had for suspicion, and how impossible it was for him to foresee a perfidy, which nothing short of infatuation could have produced. He proceeded to his companions with no other regret than that necessity, for a moment, forced him from a home, which the smile of affection had never ceased to endear to him. After a day, however, passed, as such a day might have been supposed to pass, in the flow of soul, and the philosophy of pleasure, he returned home to share his happiness with her, without whom no happiness ever had been perfect. Alas! he was never to behold her more! Imagine, if you can, the phrenzy of his astonishment, in being informed by Mrs. Porter, the daughter of the former landlady, that about two hours before, she had attended Mrs. Guthrie to a confectioner's shop, that a carriage had drawn up at the corner of the street, into which a gentleman, whom she recognized to be a Mr. Sterne, had handed her, and they instantly departed. I must tell you, there is every reason to believe, that this woman was the confidant of the conspiracy. What a pity that the object of that guilty confidence had not something of humanity; that as a female, she did not feel for the character of her sex; that, as a mother, she did not mourn over the sorrows of a helpless family! What pangs might she not have spared?

My client could hear no more; even at the dead of night he rushed into the street, as if in its own dark hour he could discover guilt's recesses. In vain did he awake the peaceful family of the horror-struck Mrs. Fallon; in vain, with the parents of the miserable *fugitive, did he mingle* the tears of an impotent dis-

traction; in vain, a miserable maniac, did he traverse the silent streets of the metropolis, affrighting virtue from its slumber with the spectre of its own ruin. I will not harrow you with its heart-rending recital. But imagine you see him, when the day had dawned, returning wretched to his deserted dwelling, seeing in every chamber a memorial of his loss, and hearing every tongueless object eloquent of his woe. Imagine you see him, in the reverie of his grief, trying to persuade himself it was all a vision, and awakened only to the horrid truth by his helpless children *asking for their mother!*

Gentlemen, this is not a picture of the fancy; it literally occurred; there is something less of romance in the reflection which his children awakened in the mind of their afflicted father; he ordered that they should be immediately habited in mourning. How rational sometimes are the ravings of insanity! For all the purposes of maternal life, poor innocents, they have no mother! her tongue no more can teach, her hand no more can tend them: for them there is not "speculation in her eyes;" to them her life is something worse than death; as if the awful grave had yawned her forth, she moves before them shrouded all in sin, the guilty burden of its peaceless sepulchre. Better, far better, their little feet had followed in her funeral, than the hour which taught her value, should reveal her vice,—mourning her loss, they might have blessed her memory; and shame need not have rolled its fires into the fountain of their sorrow.

As soon as his reason had become sufficiently collected, Mr, Guthrie pursued the fugitives; he traced them successively to Kildare, to Carlow, Waterford, Milfordhaven, on through Wales, and finally to Ilfracombe, in Devonshire; where the clue was lost I am glad that, in this route and restlessness of their guilt, as the crime they perpetrated was foreign to our soil, they did not make that soil the scene of its habitation. I will not follow them through this joyless journey, nor brand by my record the unconscious scene of its pollution. But philosophy never taught, the pulpit never enforced, a more imperative morality than the itinerary of that accursed tour promulgates. Oh! if there be a maid or matron in this island, balancing between the alternative of virtue and of crime, trembling between the hell of the seducer and the adulterer, and the heaven of the parental and the nuptial home, let her pause upon this one, out of the many horrors I

could depict,—and be converted. I will give you the relation in the very words of my brief; I cannot improve upon the simplicity of the recital:

"On the 7th of July they arrived at Milford; the captain of the packet dined with them, and was astonished at the magnificence of her dress." (Poor wretch! she was decked and adorned for the sacrifice!) The next day they dined alone. Towards evening, the housemaid, passing near their chamber, heard Mr. Sterne *scolding*, and apparently *beating* her! In a short time after, Mrs. Guthrie rushed out of her chamber into the drawing-room, and throwing herself in agony upon the sofa, she exclaimed, *Oh! what an unhappy wretch I am!—I left my home, where I was happy, too happy, seduced by a man who has deceived me.—My poor* HUSBAND! *my dear* CHILDREN! *Oh! if they would even let my little* WILLIAM *live with me!—it would be some consolation to my* BROKEN HEART!

> "Alas! nor children more can she behold,
> Nor friends, nor sacred home."

Well might she lament over her fallen fortunes! well might she mourn over the memory of days when the sun of heaven seemed to rise but for her happiness! well might she recall the home she had endeared, the children she had nursed, the hapless husband, of whose life she was the pulse! But one short week before, this earth could not reveal a lovelier vision:—Virtue blessed, affection followed, beauty beamed on her; the light of every eye, the charm of every heart, she moved along in cloudless chastity, cheered by the song of love, and circled by the splendours she created! Behold her now, the loathsome refuse of an adulterous bed; festering in the very infection of her crime; the scoff and scorn of their unmanly, merciless, inhuman author! But thus it ever is with the votaries of guilt; the birth of their crime is the death of their enjoyment; and the wretch who flings his offering on its altar, falls an immediate victim to the flame of his devotion. I am glad it is so; it is a wise, retributive dispensation; it bears the stamp of a preventive Providence. I rejoice it is so, in the present instance, first, because this premature infliction must insure repentance in the wretched sufferer: and next, because, as this adulterous fiend has rather acted on the suggestions of his nature than his shape, by rebelling against the finest impulse of man, he has made himself an outlaw from *the sympathies of humanity*.—Why should he expect that charity

from you, which he would not spare even to the misfortunes he had inflicted? For the honour of the form in which he is disguised, I am willing to hope he was so blinded by his vice, that he did not see the full extent of those misfortunes. If he had feelings capable of being touched, it is not to the faded victim of her own weakness, and of his wickedness, that I would direct them. There is something in her crime which affrights charity from its commiseration.

But, Gentlemen, there is one, over whom pity may mourn,—for he is wretched; and mourn without a blush,—for he is guiltless. How shall I depict to you the deserted husband? To every other object in this catalogue of calamity there is one stain attached which checks compassion.—But here—oh! if ever there was a man amiable, it was that man—oh! if ever there was a husband fond, it was that husband. His hope, his joy, his ambition was domestic, his toils were forgotten in the affections of his home; and amid every adverse variety of fortune, hope pointed to his children,—and he was comforted. By this vile act that hope is blasted, that house is a desert, those children are parentless! In vain do they look to their surviving parent: his heart is broken, his mind is in ruins: his very form is fading from the earth. He had one consolation, an aged mother, on whose life the remnant of his fortunes hung, and on whose protection of his children his remaining prospects rested; even that is over; she could not survive his shame, she never raised her head, she became hearsed in his misfortune;—he has followed her funeral. If this be not the climax of human misery, tell me in what does human misery consist? Wife, parent, fortune, prospects, happiness,—all gone at once,—and gone for ever! For my part, when I contemplate this, I do not wonder at the impression it has produced on him; I do not wonder at the faded form, the dejected air, the emaciated countenance, and all the ruinous and mouldering trophies, by which misery has marked its triumph over youth, and health, and happiness? I know, that in the hordes of what is called fashionable life, there is a sect of philosophers, wonderfully patient of their fellow-creatures' sufferings; men too insensible to feel for any one, or too selfish to feel for others. I trust there is not one amongst you who can even hear of such calamities without affliction; or, if there be, I pray that he may never know their import by experience; *that having,* in the wilderness of this world, but one dear,

darling object, without whose participation, bliss would be joyless, and in whose sympathies sorrow has found a charm; whose smile has cheered his toil, whose love has pillowed his misfortunes, whose angel-spirit, guiding him through danger, and darkness, and despair, amid the world's frown and the friend's perfidy, was more than friend, and world, and all to him! God forbid, that by a villain's wile, or a villain's wickedness, he should be taught how to appreciate the wo of others in the dismal solitude of his own. Oh, no! I feel that I address myself to human beings, who, knowing the value of what the world is worth, are capable of appreciating all that makes it dear to us.

Observe, however,—lest this crime should want aggravation—observe, I beseech you, the *period* of its accomplishment. My client was not so young as that the elasticity of his spirit could rebound and bear him above the pressure of the misfortune; nor was he withered by age into a comparative insensibility; but just at that temperate interval of manhood, when passion had ceased to play, and reason begins to operate; when love, gratified, left him nothing to desire; and fidelity, long tried, left him nothing to apprehend: he was just, too, at that period of his professional career, when, his patient industry having conquered the ascent, he was able to look around him from the height on which he rested. For this, welcome had been the day of tumult, and the pale midnight lamp succeeding; welcome had been the drudgery of form; welcome the analysis of crime; welcome the sneer of envy, and the scorn of dulness, and all the spurns which "patient merit of the unworthy takes." For this he had encountered, perhaps, the generous rivalry of genius, perhaps the biting blasts of poverty, perhaps the efforts of that deadly slander, which, coiling round the cradle of his young ambition, might have sought to crush him in its envenomed foldings.

> "Ah! who can tell how hard it is to climb
> The steep where Fame's proud temple shines afar?
> Ah! who can tell how many a soul sublime
> Hath felt the influence of malignant star,
> And waged with fortune an eternal war?"

Can such an injury as this admit of justification? I think the learned counsel will concede it cannot. But it may be palliated. Let us see how.—*Perhaps* the defendant was young and thoughtless; perhaps unmerited prosperity raised him above the pressure of *misfortune, and the wild impulses* of impetuous passion impel-

led him to a purpose at which his experience would have shuddered. Quite the contrary. The noon of manhood has almost passed over him: and a youth, spent in the recesses of a debtor's prison, made him familiar with every form of human misery: he saw what misfortune was;—it did not teach him pity: he saw the effects of guilt;—he spurned the admonition.—*Perhaps* in the solitude of a single life, he had never known the social blessedness of marriage;—he has a wife and children; or, if she be not his wife, she is the victim of his crime, and adds another to the calender of his seduction. Certain it is, he has little children, who think themselves legitimate; will his advocates defend him, by proclaiming their bastardy? Certain it is, there is a wretched female, his own cousin too, who thinks herself his wife; will they protect him, by proclaiming he has only deceived her into being his prostitute?—*Perhaps* his crime, as in the celebrated case of *Howard*, immortalized by Lord Erskine, may have found its origin in parental cruelty; it might perhaps have been that in their spring of life, when fancy waved her fairy wand around them, till all above was sun-shine, and all beneath was flowers; when to their clear and charmed vision this ample world was but a weedless garden, where every tint spoke Nature's loveliness, and every sound breathed Heaven's melody, and every breeze was but em bodied fragrance; it might have been that, in this cloudless holiday, Love wove his roseate bondage round them, till their young hearts so grew together, a separate existence ceased, and life itself became a sweet identity; it might have been that, envious of this paradise, some worse than demon tore them from each other to pine for years in absence, and at length to perish in a palliated impiety. Oh! Gentlemen, in such a case, Justice herself, with her uplifted sword, would call on Mercy to preserve the victim. There was no such palliation:—the period of their acquaintance was little more than sufficient for the maturity of their crime; and they dare not libel Love by shielding under its soft and sacred name the loathsome revels of an adulterous depravity.—*It might have been*, the husband's cruelty left a too easy inroad for seduction. Will they dare assert it? Ah! too well they know he would not let "the winds of heaven visit her face too roughly." Monstrous as it is, I have heard, indeed, that they *mean to rest* upon an opposite palliation: I have heard it *rumoured, that they* mean to rest the wife's infidelity upon the

husband's fondness. I know that guilt, in its conception mean, and in its commission tremulous, is, in its exposure, desperate and audacious. I know that, in the fugitive panic of its retreat it will stop to fling its Parthian poisons upon the justice that pursues it. But I do hope, bad and abandoned, and hopeless as their cause is,—I do hope, for the name of human nature, that I have been deceived in the rumours of this unnatural defence. Merciful God! is it in the presence of this venerable Court, is it in the hearing of this virtuous jury, is it in the zenith of an enlightened age, that I am to be told, because female tenderness was not watched with worse than Spanish vigilance, and harassed with worse than eastern severity; because the marriage-contract is not converted into the curse of incarceration; because woman is allowed the dignity of a human soul, and man does not degrade himself into a human monster; because the vow of endearment is not made the vehicle of deception, and the altar's pledge is not become the passport of a barbarous perjury; and that too in a land of courage and chivalry, where the female form has been held as a patent direct from the Divinity, bearing in its chaste and charmed helplessness the assurance of its strength, and the amulet of its protection: am I to be told, that the demon adulterer is therefore not only to perpetrate his crimes, but to vindicate himself through the very virtues he has violated? I cannot believe it; I dismiss the supposition; it is most "monstrous, foul, and unnatural." Suppose that the plaintiff pursued a different principle; suppose, that his conduct had been the reverse of what it was; suppose, that in place of being kind, he had been cruel to this deluded female; that he had been her tyrant, not her protector; her jailor, not her husband; what then might have been the defence of the adulterer? Might he not then say, and say with speciousness. "True, I seduced her into crime, but it was to save her from cruelty; true, she is *my adulteress*, because he was *her despot*." Happily, Gentlemen, he can say no such thing. I have heard it said, too, during the ten months of calumny, for which, by every species of legal delay, they have procrastinated this trial, that next to the impeachment of the husband's tenderness, they mean to rely on what they libel as the levity of their unhappy victim! I know not by what right any man, but above all, a married man, presumes to scrutinize into the conduct of a married female. I know not, Gentlemen, how you

would feel, under the consciousness that every coxcomb was at liberty to estimate the warmth, or the coolness of your wives, by the barometer of his vanity, that he might ascertain precisely the prudence of his invasion on their virtue. But I do know, that such a defence, coming from such a quarter, would not at all surprise me. Poor—unfortunate—fallen female! How can she expect mercy from her destroyer? How can she expect that he will revere the characters he was careless of preserving? How can she suppose that, after having made her peace the pander to his appetite, he will not make her reputation the victim of his avarice? Such a defence is quite to be expected: knowing him, it will not surprise me; if I know you, it will not avail him.

Having now shown you, that a crime almost unprecedented in this country, is clothed in every aggravation, and robbed of every palliative, it is natural you should inquire, what was the motive for its commission? What do you think it was? Providentially—miraculously, I should have said, for you never could have divined—the Defendant has himself disclosed it. What do you think it was, Gentlemen? *Ambition!* But a few days before this criminality, in answer to a friend, who rebuked him for the almost princely expenditure of his habits—"Oh," says he, "never mind; Sterne must do something by which Sterne may be *known!*" I had heard, indeed, that ambition was a vice, but then a vice so equivocal, it verged on virtue; that it was the aspiration of a spirit, sometimes perhaps appalling, always magnificent; that though its grasp might be fate, and its flight might be famine, still it reposed on earth's pinnacle, and played in heaven's lightnings; that though it might fall in ruins, it arose in fire, and was withal so splendid, that even the horrors of that fall became immerged and mitigated in the beauties of that aberration! But here is an ambition!—base and barbarous and illegitimate, with all the grossness of the vice, with none of the grandeur of the virtue; a mean, muffled, dastard incendiary, who, in the silence of sleep and the shades of midnight, steals his Ephesian torch into the fane, which it was virtue to adore, and worse than sacrilege to have violated!

Gentlemen, my part is done; yours is about to commence. You have heard this crime—its origin, its progress, its aggravations, *its novelty* amongst us. Go and tell your children and your country, *whether* or not it is to be made a precedent. Oh! how

awful is your responsibility! I do not doubt that you will discharge yourselves of it as becomes your characters. I am sure, indeed, that you will mourn with me over the almost solitary defect in our otherwise matchless system of jurisprudence, which leaves the perpetrators of such an injury as this, subject to no amercement but that of money. I think you will lament the failure of the great *Cicero* of our age, to bring such an offence within the cognizance of a criminal jurisdiction; it was a subject suited to his legislative mind, worthy of his feeling heart, worthy of his immortal eloquence. I cannot, my Lord, even remotely allude to Lord *Erskine*, without gratifying myself by saying of him, that, by the rare union of all that was learned in law with all that was lucid in eloquence, by the singular combination of all that was pure in morals with all that was profound in wisdom; he has stamped upon every action of his life the blended authority of a great mind and an unquestionable conviction. I think, Gentlemen, you will regret the failure of such a man in such an object. The merciless murderer may have manliness to plead; the highway robber may have want to palliate; yet they both are objects of criminal infliction: but the murderer of connubial bliss, who commits his crime in secrecy;—the robber of domestic joys, whose very wealth, as in this case, may be his instrument;—he is suffered to calculate on the infernal fame which a superfluous and unfelt expenditure may purchase. The law, however, is so, and we must only adopt the remedy it affords us. In your adjudication of that remedy, I do not ask too much, when I ask the full extent of your capability; how poor, even so, is the wretched remuneration for an injury which nothing can repair,—for a loss which nothing can alleviate? Do you think that a mine could recompense my client for the forfeiture of her who was dearer than life to him?

> "Oh, had she been but true,
> Though heaven had made him such another world,
> Of one entire and perfect chrysolite
> He'd not exchange her for it!"

I put it to any of you, what would you take to stand in his situation? What would you take to have your prospects blasted, your profession despoiled, your peace ruined, your bed profaned, your parents heart-broken, your children parentless? Believe, Gentlemen, if it were not for those children, he would not come here to day to seek such remuneration; if it were not that, by your verdict, *you may prevent those little* innocent defrauded wretches

from becoming wandering beggars, as well as orphans on the face of this earth. Oh, I know I need not ask this verdict from your mercy; I need not extort it from your compassion; I will receive it from your justice. I do conjure you, not as fathers, but as husbands:—not as husbands but as citizens:—not as citizens, but as men:—not as men, but as Christians:—by all your obligations, public, private, moral, and religious; by the hearth profaned; by the home desolated; by the canons of the living God foully spurned; —save, oh! save your fire-sides from the contagion, your country from the crime, and perhaps thousands, yet unborn, from the shame, and sin, and sorrow of this example!

SPEECH OF MR. PHILLIPS

IN THE CASE OF

O'MULLAN *v.* M'KORKILL.

DELIVERED IN THE COUNTY COURT-HOUSE, GALWAY.

My Lords and Gentlemen,

I AM instructed, as of counsel for the Plaintiff, to state to you the circumstances in which this action has originated. It is a source to me, I will confess it, of much personal embarrassment. Feebly, indeed, can I attempt to convey to you, the feelings with which a perusal of this brief has affected me; painful to you must be my inefficient transcript—painful to all who have the common feelings of country or of kind, must be this calamitous compendium of all that degrades our individual nature, and of all that has, for many an age of sorrow, perpetuated a curse upon our national character. It is, perhaps, the misery of this profession, that every hour our vision may be blasted by some withering crime, and our hearts wrung with some agonizing recital; there is no frightful form of vice, or no disgusting phantom of infirmity, which guilt does not array in spectral train before us. Horrible is the assemblage! humiliating the application! but thank God, even amid those very scenes of disgrace and of debasement, occasions oft arise for the redemption of our dignity; occasions, on which the virtues breathed into us, by heavenly inspiration, walk abroad in the divinity of their exertion; before whose beam the wintry robe falls from the form of virtue, and all the midnight images of horror vanish into nothing. Joyfully and piously do I recognise such an occasion; gladly do I invoke you to the generous participation; yes, Gentlemen, though you must prepare to hear much that degrades our nature, much that distracts our country—though all that oppression could devise against poor—though all that persecution could inflict upon the feeble—though *all that vice* could wield against the pious—

though all that the venom of a venal turpitude could pour upon the patriot, must with their alternate apparition afflict, affright, and humiliate you, still do I hope, that over this charnel-house of crime—over this very sepulchre, where corruption sits enthroned upon the merit it has murdered, that voice is at length about to be heard, at which the martyred victim will arise to vindicate the ways of Providence, and prove that even in its worst adversity there is a might and immortality in virtue.

The Plaintiff, Gentlemen, you have heard, is the Rev. Cornelius O'Mullan; he is a clergyman of the church of Rome, and became invested with that venerable appellation, so far back as September, 1804. It is a title which you know, in this country, no rank ennobles, no treasure enriches, no establishment supports; its possessor stands undisguised by any *rag* of this world's decoration, resting all temporal, all eternal hope upon his toil, his talents, his attainments, and his piety—doubtless, after all, the highest honours, as well as the most imperishable treasures of the man of God. Year after year passed over my client, and each anniversary only gave him an additional title to these qualifications. His precept was but the handmaid to his practice; the sceptic heard him, and was convinced; the ignorant attended him, and were taught; he smoothed the death-bed of too heedless wealth; he rocked the cradle of the infant charity; oh, no wonder he walked in the sunshine of the public eye, no wonder he toiled through the pressure of the public benediction. This is not an idle declamation; such was the result his ministry produced, that within five years from the date of its commencement, nearly 2000*l.* of voluntary subscription enlarged the temple where such precepts were taught, and such piety exemplified. Such was the situation of Mr. O'Mullan, when a dissolution of parliament took place, and an unexpected contest for the representation of Derry, threw that county into unusual commotion. One of the candidates was of the Ponsonby family—a family devoted to the interests, and dear to the heart of Ireland; he naturally thought that his parliamentary conduct entitled him to the vote of every Catholic in the land; and so it did, not only of every Catholic but of every Christian who preferred the diffusion of the Gospel to the ascendancy of a sect, and loved the *principles of* the constitution better than the pretensions of a *party* Perhaps you will think with me, that there is a sort of

posthumous interest thrown about that event, when I tell you, that the candidate on that occasion was the lamented Hero over whose tomb the tears, not only of Ireland, but of Europe, have been so lately shed; he who, mid the blossoms of the world's chivalry, died conquering a deathless name upon the field of Waterloo. He applied to Mr. O'Mullan for his interest, and that interest was cheerfully given, the concurrence of his bishop having been previously obtained. Mr. Ponsonby succeeded; and a dinner, to which all parties were invited, and from which all party spirit was expected to absent itself, was given to commemorate one common triumph—the purity and the privileges of election. In other countries, such an expectation might be natural; the exercise of a noble constitutional privilege, the triumph of a great popular cause, might not unaptly expand itself in the intercourse of the board, and unite all hearts in the natural bond of festive commemoration. But, alas, Gentlemen, in this unhappy land, such has been the result, whether of our faults, our follies, or our misfortunes, that a detestable disunion converts the very balm of the bowl into poison, commissioning its vile and happy offspring, to turn even our festivity into famine. My client was at this dinner; it was not to be endured that a Catholic should pollute with his presence the civic festivities of the *loyal* Londonderry! such an intrusion, even the acknowledged sanctity of his character could not excuse; it became necessary to insult him. There is a toast, which, perhaps, few in this united country are in the habit of hearing, but it is the invariable watchword of the Orange orgies; it is briefly entitled "The glorious, pious, and immortal memory of the great and good King William." I have no doubt the simplicity of your understandings is puzzled how to discover any offence in the commemoration of the Revolution Hero. The loyalists of Derry are more wise in their generation. There, when some Bacchanalian bigots wish to avert the intrusive visitations of their own memory, they commence by violating the memory of King William.* Those

* This loyal toast, handed down by Orange tradition, is literally as follows,—we give it for the edification of the sister island.

"The glorious, pious, and immortal memory of the great and good King William, who saved us from Pope and Popery, James and slavery, brass money and wooden shoes; here is bad luck to the Pope, and a hempen rope to all Papists——."

It is drank kneeling, if *they cannot stand*, nine times nine, amid various mysteries *which none but the elect can comprehend.*

who happen to have shoes or silver in their fraternity—no very usual occurrence—thank His Majesty that the shoes are not wooden, and that the silver is not brass, a commodity, by the bye, of which any legacy would have been quite superfluous. The Pope comes in for a pious benediction; and the toast concludes with a patriotic wish, for all his persuasion, by the consummation of which there can be no doubt, the hempen manufactures of this country would experience a very considerable consumption. Such, Gentlemen, is the enlightened, and liberal, and social sentiment of which the first sentence, all that is usually given, forms the suggestion. I must not omit that it is generally taken standing, always providing *it be in the power of the company.* This toast was pointedly given to insult Mr. O'Mullan. Naturally averse to any altercation, his most obvious course was to quit the company, and this he did immediately. He was, however, as immediately recalled by an intimation, that the Catholic question, and might its claims be considered justly and liberally, had been toasted as a peace-offering by Sir George Hill, the City Recorder. My client had no gall in his disposition; he at once clasped to his heart the friendly overture, and in such phrase as his simplicity supplied, poured forth the gratitude of that heart to the liberal Recorder. Poor O'Mullan had the wisdom to imagine that the politician's compliment was the man's conviction, and that a table toast was the certain prelude to a parliamentary suffrage. Despising all experience, he applied the adage, *Cœlum non animum mutant qui trans mare currunt,* to the Irish patriot. I need not paint to you the consternation of Sir George, at so unusual and so unparliamentary a construction. He indignantly disclaimed the intention imputed to him, denied and deprecated the unfashionable inference, and acting on the broad scale of an impartial policy, gave to one party the weight of his vote, and to the other, the (no doubt in his opinion) equally valuable acquisition of his eloquence; by the way, no unusual compromise amongst modern politicians.

The proceedings of this dinner soon became public. Sir George, you may be sure, was little in love with his notoriety. However, Gentlemen, the sufferings of the powerful are seldom without sympathy; if they receive not the solace of the disinterested and *the sincere, they* are at least sure to find a substitute in the miserable professions of an interested hypocrisy. Who could ima-

gine, that Sir George, of all men, was to drink from the spring of Catholic consolation? yet so it happened. Two men of that communion had the hardihood and the servility to frame an address to him, reflecting upon the pastor, who was its pride and its ornament. This address, with the most obnoxious commentaries, was instantly published by the Derry Journalist, who from that hour, down to the period of his ruin, has never ceased to persecute my client, with all that the most deliberate falsehood could invent, and all that the most infuriate bigotry could perpetrate. This journal, I may as well now describe to you: it is one of the numerous publications which the misfortunes of this unhappy land have generated, and which has grown into considerable affluence by the sad contributions of the public calamity. There is not a provincial village in Ireland which some such official fiend does not infest, fabricating a gazette of fraud and falsehood, upon all who presume to advocate her interests, or uphold the ancient religion of her people;—the worst foes of government, under pretence of giving it assistance; the deadliest enemies to the Irish name, under the mockery of supporting its character; the most licentious, irreligious, illiterate banditti that ever polluted the fair fields of literature, under the spoliated banner of the press. Bloated with the public spoil, and blooded in the chase of character, no abilities can arrest, no piety can awe; no misfortune affect, no benevolence conciliate them; the reputation of the living, and the memory of the dead, are equally plundered in their desolating progress; even the awful sepulchre affords not an asylum to their selected victim. HUMAN HYENAS! they will rush into the sacred receptacle of death, gorging their ravenous and brutal rapine amid the memorials of our last infirmity! Such is a too true picture of what, I hope unauthorisedly, misnames itself the ministerial press of Ireland. Amid that polluted press, it is for you to say, whether *The Londonderry Journal* stands on an infamous elevation. When this address was published in the name of the Catholics, that calumniated body, as was naturally to be expected, became universally indignant.

You may remember, Gentlemen, amongst the many expedients resorted to by Ireland, for the recovery of her rights, after she had knelt session after session at the bar of the legislature, covered with the wounds of glory, *and praying redemption from the chains that rewarded them*;—you may remember, I say, amongst

many vain expedients of supplication and remonstrance, her Catholic population delegated a board to consult on their affairs, and forward their petition. Of that body, fashionable as the topic has now become, far be it from me to speak with disrespect. It contained much talent, much integrity; and it exhibited what must ever be to me an interesting spectacle—a great body of my fellow men, and fellow christians, claiming admission into that constitution which their ancestors had achieved by their valour, and to which they were entitled as their inheritance. This is no time, this is no place for the discussion of that question; but since it does force itself incidentally upon me, I will say, that as on the one hand, I cannot fancy a despotism more impious, or more inhuman, than the political abasement here, on account of that faith by which men hope to win a happy eternity hereafter; so on the other, I CANNOT FANCY A VISION IN ITS ASPECT MORE DIVINE THAN THE ETERNAL CROSS, RED WITH THE MARTYR'S BLOOD, AND RADIANT WITH THE PILGRIM'S HOPE. REARED BY THE PATRIOT AND THE CHRISTIAN HAND HIGH IN THE VAN OF UNIVERSAL LIBERTY. Of this board the two volunteer framers of the address happened to be members. The body who deputed them, instantly assembled and declared their delegation void. You would suppose, Gentlemen, that after this decisive public brand of reprobation, those officious meddlers would have avoided its recurrence, by retiring from scenes for which nature and education had totally unfitted them. Far, however, from acting under any sense of shame, those excluded outcasts even summoned a meeting to appeal from the sentence the public opinion had pronounced on them. The meeting assembled, and after almost the day's deliberation on their conduct, the former sentence was unanimously confirmed. The men did not deem it prudent to attend themselves; but at a late hour, when the business was concluded, when the resolutions had passed, when the chair was vacated, when the multitude was dispersing, they attempted, with some Orange followers, to obtrude into the chapel, which in large cities, such as Derry, is the usual place of meeting. An angry spirit arose among the people. Mr. O'Mullan, as was his duty, locked the doors to preserve the house of God from profanation, and addressed the crowd in such terms as induced them to re*pair peaceably* to their respective habitations. I need not paint *to you the bitter* emotions with which these deservedly disap-

pointed men were agitated. All hell was at work within them, and a conspiracy was hatched against the peace of my client, the vilest, the foulest, the most infernal that ever vice devised, or demons executed. Restrained from exciting a riot by his interference, they actually swore a riot against him, prosecuted him to conviction, worked on the decaying intellect of his bishop to desert him, and amid the savage war-whoop of this slanderous Journal, all along inflaming the public mind by libels the most atrocious, finally flung this poor, religious, unoffending priest, into a damp and desolate dungeon, where the very iron that bound, had more of humanity than the despots that surrounded him. I am told, they triumph much in this conviction. I seek not to impugn the verdict of that jury; I have no doubt they acted conscientiously. It weighs not with me that every member of my client's creed was carefully excluded from that jury—*no doubt they acted conscientiously.* It weighs not with me that every man impannelled on the trial of the priest, was exclusively Protestant, and that, too, in a city so prejudiced, that not long ago, by their Corporation law, no Catholic dare breathe the air of heaven within its walls—*no doubt they acted conscientiously.* It weighs not with me, that not three days previously, one of that jury was heard publicly to declare, he wished he could persecute the Papist to his death—*no doubt they acted conscientiously.* It weighs not with me, that the public mind had been so inflamed by the exasperation of this libeller, that an impartial trial was utterly impossible. Let them enjoy their triumph. But for myself, knowing him as I do, here in the teeth of that conviction, I declare it, I would rather be that man, so aspersed, so imprisoned, so persecuted, and *have his consciousness*, than stand the highest of the courtliest rabble that ever crouched before the foot of power, or fed upon the people-plundered alms of despotism. Oh, of short duration is such demoniac triumph. Oh, blind and groundless is the hope of vice, imagining its victory can be more than for the moment. This very day I hope will prove, that if virtue suffers, it is but for a season; and that sooner or later, their patience tried, and their purity testified, prosperity will crown the interests of probity and worth.

Perhaps you imagine, Gentlemen, that his person imprisoned, his profession gone, his prospects ruined, and what he held dearer than all, *his character defamed*; the malice of his enemies might

have rested from persecution. "Thus bad begins, but worse remains behind." Attend, I beseech you, to what now follows, because I have come, in order, to the particular libel, which we have selected from the innumerable calumnies of this Journal, and to which we call your peculiar consideration. Business of moment, to the nature of which I shall feel it my duty presently to advert, called Mr. O'Mullan to the metropolis. Through the libels of the Defendant, he was at this time in disfavour with his bishop, and a rumour had gone abroad, that he was never again to revisit his ancient congregation. The Bishop in the interim returned to Derry, and on the Sunday following, went to officiate at the parish chapel. All ranks crowded tremulously round him; the widow sought her guardian; the orphan his protector; the poor their patron; the rich their guide; the ignorant their pastor; all, all, with one voice, demanded his recal, by whose absence the graces, the charities, the virtues of life, were left orphans in their communion. Can you imagine a more interesting spectacle? The human mind never conceived—the human hand never depicted a more instructive or delightful picture. Yet, will you believe it! out of this very circumstance the Defendant fabricated the most audacious, and, if possible, the most cruel of his libels. Hear his words;—"O'Mullan," says he, "was convicted and degraded, for assaulting his own Bishop, and the Recorder of Derry, in the parish chapel!" Observe the disgusting malignity of the libel—observe the crowded damnation which it accumulates on my client—observe all the aggravated crime which it embraces.—First, he assaults his venerable Bishop—the great ecclesiastical patron, to whom he was sworn to be obedient, and against whom he never conceived or articulated irreverence. Next, he assaults the Recorder of Derry—a privy counsellor, the supreme municipal authority of the city. And where does he do so? Gracious God, in the very temple of thy worship! That is, says the inhuman libeller—he a citizen—he a clergyman insulted not only the civil but the ecclesiastical authorities, in the face of man and in the house of prayer; trampling contumeliously upon all human law, amid the sacred altars, where he believed the Almighty witnessed the profanation! I am so horror-struck at this blasphemous and abominable turpitude, I can scarcely *proceed.* What will you say, Gentlemen, when I inform you, *that at the very time* this atrocity was imputed to him, he was

in the city of Dublin, at a distance of one hundred and twenty miles from the venue of its commission! But, oh! when calumny once begins its work, how vain are the impediments of time and distance! Before the *sirocco* of its breath all nature withers, and age, and sex, and innocence, and station, perish in the unseen, but certain desolation of its progress! Do you wonder O'Mullan sunk before these accumulated calumnies? do you wonder the feeble were intimidated, the wavering decided, the prejudiced confirmed? He was forsaken by his bishop; he was denounced by his enemies—his very friends fled in consternation from the "stricken deer;" he was banished from the scenes of his childhood, from the endearments of his youth, from the field of his fair and honourable ambition. In vain did he resort to strangers for subsistence; on the very wings of the wind, the calumny preceded him; and from that hour to this, a too true apostle, he has been "a man of sorrows," "not knowing where to lay his head." I will not appeal to your passions; alas! how inadequate am I to depict his sufferings; you must take them from the evidence. I have told you, that at the time of those infernally fabricated libels, the Plaintiff was in Dublin, and I promised to advert to the cause by which his absence was occasioned.

Observing in the course of his parochial duties, the deplorable, I had almost said, the *organized ignorance of the Irish peasantry—an ignorance whence all their crimes, and most of their sufferings originate:* observing also, that there was no publicly established literary institution to relieve them, save only the charter schools, which tendered learning to the shivering child, as a bounty upon apostacy to the faith of his fathers; he determined, if possible, to give them the lore of this world, without offering it as a mortgage upon the inheritance of the next. He framed the prospectus of a school, for the education of five hundred children, and went to the metropolis to obtain subscriptions for the purpose. I need not descant upon the great general advantage, or to this country the peculiarly patriotic consequences, which the success of such a plan must have produced. No doubt, you have all personally considered—no doubt, you have all personally experienced, that of all the blessings which it has pleased Providence to allow us to cultivate, there is not one which breathes a purer fragrance, or bears a heavenlier aspect than education. It is a companion *which no misfortunes can depress*, no clime destroy, no enemy

alienate, no despotism enslave: at home a friend, abroad an introduction, in solitude a solace, in society an ornament: it chastens vice, it guides virtue, it gives at once a grace and government to genius. Without it, what is man? A splendid slave! a reasoning savage, vacillating between the dignity of an intelligence derived from God, and the degradation of passions participated with brutes; and in the accident of their alternate ascendency shuddering at the terrors of an hereafter, or embracing the horrid hope of annihilation. What is this wondrous world of his residence?

A mighty maze, and all without a plan;

a dark and desolate and dreary cavern, without wealth, or ornament or order. But light up within it the torch of knowledge, and how wondrous the transition! The seasons change, the atmosphere breathes, the landscape lives, earth unfolds its fruits, ocean rolls in its magnificence, the heavens display their constellated canopy, and the grand animated spectacle of nature rises revealed before him, its varieties regulated, and its mysteries resolved! The phenomena which bewilder, the prejudices which debase, the superstitions which enslave, vanish before education. Like the holy symbol which blazed upon the cloud before the hesitating Constantine, if man follow but its precepts, purely, it will not only lead him to the victories of this world, but open the very portals of Omnipotence for his admission. Cast your eye over the monumental map of ancient grandeur, once studded with the stars of empire, and the splendours of philosophy. What erected the little state of Athens into a powerful commonwealth, placing in her hand the sceptre of legislation, and wreathing round her brow the imperishable chaplet of literary fame? what extended Rome, the haunt of banditti, into universal empire? what animated Sparta with that high, unbending, adamantine courage, which conquered nature herself, and has fixed her in the sight of future ages, a model of public virtue, and a proverb of national independence? What but those wise public institutions which strengthened their minds with early application, informed their infancy with the principles of action, and sent them into the world, too vigilant to be deceived by its calms, and too vigorous to be shaken by its whirlwinds? But surely, if there be a people in the world, to whom the blessings of education are *peculiarly applicable*, it is the Irish people. Lively, ardent, *intelligent, and sensitive*; nearly all their acts spring from impulse,

and no matter how that impulse be given, it is immediately adopted, and the adoption and the execution are identified. It is this principle, if principle it can be called, which renders Ireland, alternately, the poorest and the proudest country in the world; now chaining her in the very abyss of crime, now lifting her to the very pinnacle of glory; which in the poor, proscribed, peasant Catholic, crowds the jail and feeds the gibbet; which in the more fortunate, because more educated Protestant, leads victory a captive at her car, and *holds echo mute at her eloquence;* making a national monopoly of fame, and, as it were, attempting to naturalize the achievements of the universe.—In order that this libel may want no possible aggravation, the defendant published it when my client was absent on this work of patriotism; he published it when he was absent on a work of virtue; and he published it on all the authority of his local knowledge, when that very local knowledge must have told him, that it was destitute of the shadow of a foundation. Can you imagine a more odious complication of all that is deliberate in malignity, and all that is depraved in crime? I promised, Gentlemen, that I would not harrow your hearts, by exposing all that agonizes mine, in the contemplation of individual suffering. There is, however, one subject, connected with this trial, public in its nature, and universal in its interest, which imperiously calls for an exemplary verdict; I mean the liberty of the press—a theme which I approach with mingled sensations of awe, and agony, and admiration. Considering all that we too fatally have seen—all that, perhaps, too fearfully we may have cause to apprehend, I feel myself cling to that residuary safeguard, with an affection no temptations can seduce, with a suspicion no anodyne can lull, with a fortitude that peril but infuriates. In the direful retrospect of experimental despotism, and the hideous prospect of its possible re-animation, I clasp it with the desperation of a widowed female, who, in the desolation of her house, and the destruction of her household, hurries the last of her offspring through the flames, at once the relic of her joy, the depository of her wealth, and the remembrancer of her happiness. It is the duty of us all to guard strictly this inestimable privilege—a privilege which can never be destroyed, save by the licentiousness of those who wilfully abuse it. No, IT IS NOT IN THE ARROGANCE *OF POWER; NO, IT IS NOT IN* THE ARTIFICES OF LAW; NO, IT

IS NOT IN THE FATUITY OF PRINCES; NO, IT IS NOT IN THE VENALITY OF PARLIAMENTS TO CRUSH THIS MIGHTY, THIS MAJESTIC PRIVILEGE; REVILED, IT WILL REMONSTRATE; MURDERED, IT WILL REVIVE: BURIED, IT WILL RE-ASCEND; THE VERY ATTEMPT AT ITS OPPRESSION WILL PROVE THE TRUTH OF ITS IMMORTALITY, AND THE ATOM THAT PRESUMED TO SPURN, WILL FADE AWAY BEFORE THE TRUMPET OF ITS RETRIBUTION! Man holds it on the same principle that he does his soul: the powers of this world cannot prevail against it; it can only perish through its own depravity. What then shall be his fate, through whose instrumentality it is sacrificed! Nay more, what shall be his fate, who, intrusted with the guardianship of its security, becomes the traitorous accessary to its ruin? Nay more, what shall be his fate, by whom its powers, delegated for the public good, are converted into the calamities of private virtue; against whom, industry denounced, merit undermined, morals calumniated, piety aspersed, all through the means confided for their protection, cry aloud for vengeance? What shall be his fate? Oh, I would hold such a monster, so protected, so sanctified, and so sinning, as I would some demon, who, going forth, consecrated, in the name of the Deity, the book of life on his lips, and the dagger of death beneath his robe, awaits the sigh of piety, as the signal of plunder, and unveins the heart's blood of confiding adoration!—Should not such a case as this require some palliation? Is there any? Perhaps the defendant might have been misled as to circumstances? No, he lived upon the spot, and had the best possible information. Do you think he believed in the truth of the publication? No; he knew that in every syllable it was as false as perjury. Do you think that an anxiety for the Catholic community might have inflamed him against the imaginary dereliction of its advocate? No; the very essence of his Journal is prejudice. Do you think that in the ardour of liberty he might have venially transgressed its boundaries? No! in every line he licks the sores, and pampers the pestilence of authority. I do not ask you to be stoics in your investigation. If you can discover in this libel one motive inferentially moral, one single virtue which he has plundered and misapplied, give him its benefit. I will not demand such an effort of your faith, as to imagine, that his northern constitution *could, by any miracle*, be fired into the admirable but mistaken *energy of enthusiasm*;—that he could for one moment have felt

the inspired phrenzy of those loftier spirits, who, under some daring but divine delusion, rise into the arch of an ambition so bright, so baneful, yet so beauteous, as leaves the world in wonder whether it should admire or mourn—whether it should weep or worship! No; you will not only search in vain for such a palliative; but you will find this publication springing from the most odious origin, and disfigured by the most foul accompaniments, founded in a bigotry at which hell rejoices, crouching with a sycophancy at which flattery blushes, deformed by a falsehood at which perjury would hesitate, and to crown the climax of its crowded infamies, committed under the sacred shelter of the Press; as if this false, slanderous, sycophantic slave, could not assassinate private worth without polluting public privilege; as if he could not sacrifice the character of the pious without profaning the protection of the free; as if he could not poison learning, liberty, and religion, unless he filled his chalice from the very font whence they might have expected to derive the waters of their salvation!

Now, Gentlemen, as to the measure of your damages:—You are the best judges on that subject; though, indeed, I have been asked, and I heard the question with some surprise,—Why it is that we have brought this case at all to be tried before you? To that I might give at once an unobjectionable answer, namely, that the law allowed us. But I will deal much more candidly with you. We brought it here; because it was as far as possible from the scene of prejudice; because no possible partiality could exist; because, in this happy and united county, less of the bigotry which distracts the rest of Ireland exists, than in any other with which we are acquainted; because the nature of the action, which we have mercifully brought in place of a criminal prosecution,—the usual course pursued in the present day, at least against the independent press of Ireland,—gives them, if they have it, the power of proving a justification; and I perceive they have emptied half the north here for the purpose. But I cannot anticipate an objection, which, no doubt, shall not be made. If this habitual libeller should characteristically instruct his counsel to hazard it, that learned gentleman is much too wise to adopt it, and must know you much too well to insult you by its utterance. What damages, then, Gentlemen, can you give? I am content *to leave the defendant's* crimes altogether out of the

question; but how can you recompense the sufferings of my client? Who shall estimate the cost of priceless reputation—that impress which gives this human dross its currency, without which we stand despised, debased, depreciated? Who shall repair it injured? Who can redeem it lost? Oh! well and truly does the great philosopher of poetry esteem the world's wealth as "trash" in the comparison. Without it gold has no value, birth no distinction, station no dignity, beauty no charm, age no reverence; or, should I not rather say, without it every treasure impoverishes, every grace deforms, every dignity degrades, and all the arts, the decorations, and accomplishments of life, stand, like the beacon-blaze upon a rock, warning the world that its approach is danger—that its contact is death. The wretch without it, is under *eternal quarantine;*—no friend to greet—no home to harbour him. The voyage of his life becomes a joyless peril; and in the midst of all ambition can achieve, or avarice amass, or rapacity plunder, he tosses on the surge—*a buoyant pestilence!* But, Gentlemen, let me not degrade into the selfishness of individual safety, or individual exposure, this universal principle; it testifies a higher, a more ennobling origin. It is this which, consecrating the humble circle of the hearth, will at times extend itself to the circumference of the horizon; which nerves the arm of the patriot to save his country; which lights the lamp of the philosopher to amend man; which, if it does not inspire, will yet invigorate the martyr to merit immortality; which, when one world's agony is passed, and the glory of another is dawning, will prompt the prophet, even in his chariot of fire, and in his vision of heaven, to bequeath to mankind the mantle of his memory! Oh divine, oh delightful legacy of a spotless reputation! Rich is the inheritance it leaves; pious the example it testifies; pure, precious, and imperishable, the hope which it inspires! Can you conceive a more atrocious injury than to filch from its possessor this inestimable benefit—to rob society of its charm, and solitude of its solace; not only to outlaw life, but to attaint death, converting the very grave, the refuge of the sufferer, into the gate of infamy and of shame! I can conceive few crimes beyond it. He who plunders my property takes from me that which can be repaired by time: but what period can *repair a ruined* reputation? He who maims my person affects *that which medicine* may remedy: but what herb has sovereignty

over the wounds of slander? He who ridicules my poverty, or reproaches my profession, upbraids me with that which industry may retrieve, and integrity may purify: but what riches shall redeem the *bankrupt fame?* what power shall blanch the *sullied snow of character?* Can there be an injury more deadly? Can there be a crime more cruel? It is without remedy—it is without antidote—it is without evasion! The reptile calumny is ever on the watch. From the fascination of its eye no activity can escape; from the venom of its fang no sanity can recover. It has no enjoyment but crime; it has no prey but virtue; it has no interval from the restlessness of its malice, save when, bloated with its victims, it grovels to disgorge them at the withered shrine where envy idolizes *her own infirmities.* Under such a visitation how dreadful would be the destiny of the virtuous and the good, if the providence of our constitution had not given you the power, as, I trust, you will have the principle, to bruise the head of the serpent, and crush and crumble the altar of its idolatry!

And now, Gentlemen, having toiled through this narrative of unprovoked and pitiless persecution, I should with pleasure consign my client to your hands, if a more imperative duty did not still remain to me, and that is, to acquit him of every personal motive in the prosecution of this action. No; in the midst of slander, and suffering, and severities unexampled, he has had no thought, but, that as his enemies evinced how malice could persecute, he should exemplify how religion could endure; that if his piety failed to affect the oppressor, his patience might at least avail to fortify the afflicted. He was as the rock of Scripture before the face of infidelity. The rain of the deluge had fallen—it only smoothed his asperities: the wind of the tempest beat—it only blanched his brow: the rod, not of prophecy, but of persecution, smote him; and the desert, glittering with the Gospel dew, became a miracle of the faith it would have tempted! No, Gentlemen; not selfishly has he appealed to this tribunal: but the venerable religion wounded in his character,—but the august priesthood vilified in his person,—but the doubts of the sceptical, hardened by his acquiescence,—but the fidelity of the feeble, hazarded by his forbearance, goaded him from the profaned privacy of the cloister into this repulsive scene of public accusation. In him this reluctance

springs from a most natural and characteristic delicacy: in us it would become a most overstrained injustice. No, Gentlemen; though with him we must remember morals outraged, religion assailed, law violated, the priesthood scandalized, the press betrayed, and all the disgusting calendar of abstract evil; yet with him we must not reject the injuries of the individual sufferer. We must picture to ourselves a young man, partly by the self-denial of parental love, partly by the energies of personal exertion, struggling into a profession, where, by the pious exercise of his talents, he may make the fame, the wealth, the flatteries of this world, so many angel heralds to the happiness of the next. His precept is a treasure to the poor; his practice, a model to the rich. When he reproves, sorrow seeks his presence as a sanctuary; and in his path of peace, should he pause by the death-bed of despairing sin, the soul becomes *imparadised* in the light of his benediction! Imagine, Gentlemen, you see him thus; and then, if you can, imagine vice so desperate as to defraud the world of so fair a vision. Anticipate for a moment the melancholy evidence we must too soon adduce to you. Behold him, by foul, deliberate, and infamous calumny, robbed of the profession he had so struggled to obtain; swindled from the flock he had so laboured to ameliorate; torn from the school where infant virtue vainly mourns an artificial orphanage; hunted from the home of his youth, from the friends of his heart, a hopeless, fortuneless, companionless exile, hanging, in some stranger scene, on the precarious pity of the few, whose charity might induce their compassion to bestow, what this remorseless slanderer would compel their justice to withhold! I will not pursue this picture; I will not detain you from the pleasure of your possible compensation; for oh! divine is the pleasure you are destined to experience;—dearer to your hearts shall be the sensation, than to your pride shall be the dignity it will give you. What! though the people will hail the saviours of their pastor: what! though the priesthood will hallow the guardians of their brother; though many a peasant heart will leap at your name and many an infant eye will embalm their fame who restored to life, to station, to dignity, to character, the venerable friend who taught their trembling tongues to lisp the rudiments of virtue and religion, still dearer than all will be the consciousness of the

deed. Nor, believe me, countrymen, will it rest here. Oh no: if there be light in instinct, or truth in revelation, believe me, at that awful hour, when you shall await the last inevitable verdict, the eye of your hope will not be the less bright, nor the agony of your ordeal the more acute, because you shall have, by this day's deed, redeemed the Almighty's persecuted apostle from the grasp of an insatiate malice—from the fang of a worse than Philistine persecution.

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SPEECH OF MR. PHILLIPS

IN THE CASE OF

CONNAGHTON *v.* DILLON:

DELIVERED IN THE COUNTY COURT-HOUSE OF ROSCOMMON.

My Lord and Gentlemen,

In this case I am one of the counsel for the Plaintiff who has directed me to explain to you the wrongs for which, at your hands, he solicits reparation. It appears to me a case which undoubtedly merits much consideration, as well from the novelty of its appearance amongst us, as for the circumstances by which it is attended. Nor am I ashamed to say, that in my mind, not the least interesting of those circumstances is, the poverty of the man who has made this appeal to me. Few are the consolations which soothe—hard must be the heart which does not feel for him. He is, Gentlemen, a man of lowly birth and humble station; with little wealth but from the labour of his hands, with no rank but the integrity of his character, with no recreation but in the circle of his home, and with no ambition, but, when his days are full, to leave that little circle the inheritance of an honest name, and the treasure of a good man's memory. Far inferior, indeed, is he in this respect to his more fortunate antagonist. He, on the contrary, is amply either blessed or cursed with those qualifications which enable a man to adorn or disgrace the society in which he lives. He is, I understand, the representative of an honourable name, the relative of a distinguished family, the supposed heir to their virtues, the indisputable inheritor of their riches. He has been for many years a resident of your county, and has had the advantage of collecting round him all those recollections, which, springing from the scenes of school-boy association, or from the more matured enjoyments of the man, crowd, as it were, unconsciously to the heart, *and cling with* a venial partiality to the companion and the

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friend. So impressed, in truth, has he been with these advantages, that, surpassing the usual expenses of a trial, he has selected a tribunal where he vainly hopes such considerations will have weight, and where he well knows my client's humble rank can have no claim but that to which his miseries may entitle him. I am sure, however, he has wretchedly miscalculated. I know none of you personally; but I have no doubt I am addressing men who will not prostrate their consciences before privilege or power; who will remember that there is a nobility above birth, and a wealth beyond riches: who will feel that, as in the eye of that God, to whose aid they have appealed, there is not the minutest difference between the rag and the robe, so in the contemplation of that law, which constitutes our boast, guilt can have no protection, or innocence no tyrant; men who will have pride in proving, that the noblest adage of our noble constitution is not an illusive shadow; and that the peasant's cottage, roofed with straw, and tenanted by poverty, stands as inviolate from all invasion as the mansion of the monarch.

My client's name, Gentlemen, is Connaghton, and when I have given you his name you have almost all his history. To cultivate the path of honest industry comprises, in one line, "the short and simple annals of the poor." This has been his humble, but at the same time most honourable occupation. It matters little with what artificial nothings chance may distinguish the name, or decorate the person: the child of lowly life, with virtue for its handmaid, holds as proud a title as the highest—as rich an inheritance as the wealthiest. Well has the poet of your country said—that

> "Princes or Lords may flourish or may fade,
> A breath can make them, as a breath has made;
> But a brave peasantry, their country's pride,
> When once destroyed can never be supplied."

For all the virtues which adorn that peasantry, which can render humble life respected, or give the highest stations their most permanent distinctions, my client stands conspicuous. A hundred years of sad vicissitude, and, in this land, often of strong temptation, have rolled away since the little farm on which he lives received his family; and during all that time not one accusation has disgraced, not one crime has sullied it. The same spot has seen his *grandsire and his parent* pass away from this world; *the village memory records their* worth, and the rustic tear

hallows their resting-place. After all, when life's mockeries shall vanish from before us, and the heart that now beats in the proudest bosom here, shall moulder, unconscious, beneath its kindred clay, art cannot erect a nobler monument, or genius compose a purer panegyric. Such, Gentlemen, was almost the only inheritance with which my client entered the world. He did not disgrace it; his youth, his manhood, his age, up to this moment, have passed without a blemish; and he now stands confessedly the head of the little village in which he lives. About five-and-twenty years ago he married the sister of a highly respectable Roman Catholic clergyman, by whom he had a family of seven children, whom they educated in the principles of morality and religion, and who, until the defendant's interference, were the pride of their humble home, and the charm or the consolation of its vicissitudes. In their virtuous children the rejoicing parents felt their youth renewed, their age made happy: the days of labour became holidays in their smile; and if the hand of affliction pressed on them, they looked upon their little ones, and their mourning ended. I cannot paint the glorious host of feelings; the joy, the love, the hope, the pride, the blended paradise of rich emotions with which the God of nature fills the father's heart when he beholds his child in all its filial loveliness, when the vision of his infancy rises as it were reanimate before him, and a divine vanity exaggerates every trifle into some mysterious omen, which shall smooth his aged wrinkles and make his grave a monument of honour! *I* cannot describe them; but, if there be *a parent* on the jury, *he* will comprehend me. It is stated to me, that of all his children there were none more likely to excite such feelings in the plaintiff than the unfortunate subject of the present action; she was his favourite daughter, and she did not shame his preference. You shall find, most satisfactorily, that she was without stain or imputation; an aid and a blessing to her parents, and an example to her younger sisters, who looked up to her for instruction. She took a pleasure in assisting in the industry of their home; and it was at a neighbouring market, where she went to dispose of the little produce of that industry, that she unhappily attracted the notice of the defendant. Indeed, such a situation was not without its interest,—*a young female*, in the bloom of her attractions, exerting her *faculties in* a parent's service, is an object lovely in the eye of

God, and, one would suppose, estimable in the eye of mankind. Far different, however, were the sensations which she excited in the defendant. He saw her arrayed, as he confesses, in charms that enchanted him; but her youth, her beauty, the smile of her innocence, and the piety of her toil but inflamed a brutal and licentious lust, that should have blushed itself away in such a presence. What cared *he* for the consequences of his gratification?—There was

> ——"No honour, no relenting ruth,
> To paint the parents fondling o'er their child,
> Then show the ruined maid, and her distraction wild!"

What thought *he* of the home he was to desolate? What thought *he* of the happiness he was to plunder? His sensual rapine paused not to contemplate the speaking picture of the cottage-ruin, the blighted hope, the broken heart, the parent's agony, and, last and most withering in the woful group, the wretched victim herself starving on the sin of a promiscuous prostitution, and at length, perhaps, with her own hand, anticipating the more tedious murder of its diseases! *He* need not, if I am instructed rightly, have tortured his fancy for the miserable consequences of hope bereft, and expectation plundered. Through no very distant vista, he might have seen the form of deserted loveliness weeping over the worthlessness of his worldly expiation, and warning him, that as there were cruelties no repentance could atone, so there were sufferings neither wealth, nor time, nor absence, could alleviate.* If his memory should fail him, if he should deny the picture, no man can tell him half so efficiently as the venerable advocate he has so judiciously selected, that a case might arise, where, though the energy of native virtue should defy the spoliation of the person, still crushed affection might leave an infliction on the mind, perhaps less deadly, but certainly not less indelible. I turn from this subject with an indignation which tortues me into brevity; I turn to the agents by which this contamination was effected.

I almost blush to name them, yet they were worthy of their vocation. They were no other than a menial servant of Mr.

* Mr. Phillips here alluded to a verdict of 5000*l.* obtained at the late Galway Assizes against the defendant, at the suit of Miss Wilson, a very beautiful and interesting young lady, for a breach of promise of marriage. Mr. Whitestone, who now pleaded *for Mr. Dillon, was Miss Wilson's* advocate against him on the occasion alluded to.

Dillon; and a base, abandoned, profligate ruffian, a brother-in-law of the devoted victim herself, whose bestial appetites he bribed into subserviency! It does seem as if by such a selection he was determined to degrade the dignity of the master, while he violated the finer impulses of the man, by not merely associating with his own servant, but by diverting the purest streams of social affinity into the vitiated sewer of his enjoyment. Seduced by such instruments into a low public-house at Athlone this unhappy girl heard, without suspicion, their mercenary panegyric of the defendant, when, to her amazement, but, no doubt according to their previous arrangement, he entered and joined their company. I do confess to you, Gentlemen, when I first perused this passage in my brief, I flung it from me with a contemptuous incredulity. What! I exclaimed, as no doubt you are all ready to exclaim, can this be possible? Is it thus I am to find the educated youth of Ireland occupied? Is this the employment of the miserable aristocracy that yet lingers in this devoted country? Am I to find them, not in the pursuit of useful science, not in the encouragement of arts or agriculture; not in the relief of an impoverished tenantry; not in the proud march of an unsuccessful but not less sacred patriotism; not in the bright page of warlike immortality, dashing its iron crown from guilty greatness, or feeding freedom's laurel with the blood of the despot!—but am I to find them, amid drunken panders and corrupted slaves, debauching the innocence of village-life, and even amid the stews of the tavern, collecting or creating the materials of the brothel! Gentlemen, I am still unwilling to believe it, and, with all the sincerity of Mr. Dillon's advocate, I do intreat you to reject it altogether, if it be not substantiated by the unimpeachable corroboration of an oath. As I am instructed, he did not, at this time, alarm his victim by any direct communication of his purpose; he saw that "she was good as she was fair," and that a premature disclosure would but alarm her virtue into an impossibility of violation. His satellites, however, acted to admiration. They produced some trifle which he had left for her disposal; they declared he had long felt for her a sincere attachment; as a proof that it was pure, they urged the modesty with *which*, at a first interview, elevated above her as he was, he *avoided its disclosure*. When she pressed the madness of the *expectation which* could alone induce her to consent to his ad-

dresses, they assured her that though in the first instance such an event was impossible, still in time it was far from being improbable; that many men from such motives forgot altogether the difference of station, that Mr. Dillon's own family had already proved every obstacle might yield to an all-powerful passion, and induce him to make her his wife, who had reposed an affectionate credulity on his honour! Such were the subtile artifices to which he stooped. Do not imagine, however, that she yielded immediately and implicitly to their persuasions; I should scarcely wonder if she did. Every day shows us the rich, the powerful, and the educated, bowing before the spell of ambition, or avarice, or passion, to the sacrifice of their honour, their country, and their souls: what wonder, then, if a poor, ignorant peasant girl had at once sunk before the united potency of such temptations! But she did not. Many and many a time the truths which had been inculcated by her adoring parents rose up in arms; and it was not until various interviews, and repeated artifices, and untiring efforts, that she yielded her faith, her fame, and her fortunes, to the disposal of her seducer. Alas, alas! how little did she suppose that a moment was to come when, every hope denounced, and every expectation dashed, he was to fling her for a very subsistence on the charity or the crimes of the world she had renounced for him! How little did she reflect that in her humble station, unsoiled and sinless, she might look down upon the elevation to which vice would raise her! Yes, even were it a throne, I say she might look down on it. There is not on this earth a lovelier vision; there is not for the skies a more angelic candidate than a young, modest maiden, robed in chastity; no matter what its habitation, whether it be the palace or the hut:—

> "So dear to Heaven is saintly Chastity,
> That when a soul is found sincerely so,
> A thousand liveried angels lackey her,
> Driving far off each thing of sin and guilt,
> And in clear dream and solemn vision
> Tell her of things that no gross ear can hear,
> Till oft converse with heavenly habitants
> Begins to cast a beam on the outward shape,
> The unpolluted temple of the mind,
> And turns it by degrees to the soul's essence,
> Till all be made immortal!"——

Such is the supreme power of chastity, as described by one of our divinest bards, and the pleasure which I feel in the recitation of *such a passage is not a little* enhanced, by the pride that few *countries more fully afford its* exemplification than our own. Let

foreign envy decry us as it will, CHASTITY IS THE INSTINCT OF THE IRISH FEMALE; the pride of her talents, the power of her beauty, the splendour of her accomplishments, are but so many handmaids of this vestal virtue; it adorns her in the court, it ennobles her in the cottage; whether she basks in prosperity, or pines in sorrow, it clings about her like the diamond of the morning on the mountain floweret, trembling even in the ray that at once exhibits and inhales it! Rare in our land is the absence of this virtue. Thanks to the modesty that venerates, thanks to the manliness that brands and avenges its violation. You have seen that it was by no common temptations even this humble villager yielded to seduction.

I now come, gentlemen, to another fact in the progress of this transaction, betraying, in my mind, as base a premeditation, and as low and as deliberate a deception as I ever heard of. While this wretched creature was in a kind of counterpoise between her fear and her affection, struggling as well as she could between passion inflamed and virtue unextinguished, Mr. Dillon, ardently avowing that such an event as separation was impossible, ardently avowing an eternal attachment, insisted upon perfecting an article which should place her above the reach of contingencies. Gentlemen, you shall see this document, voluntarily executed by an educated and estated gentleman of your country. I know not how you will feel, but for my part I protest I am in a suspense of admiration between the virtue of the proposal and the magnificent prodigality of the provision. Listen to the article: it is all in his own hand writing:—"I promise," says he, "to give Mary Connaghton the sum of ten pounds sterling per annum, when I part with her; but if she, the said Mary, should at any time hereafter conduct herself improperly, *or* (mark this, Gentlemen) *has done so before the drawing of this article*, I am not bound to pay the sum of ten pounds, and this article becomes null and void, as if the same was never executed. John Dillon." There, Gentlemen, there is the notable and dignified document for you! take it into your jury box, for I know not how to comment on it. Oh, yes, I have heard of ambition urging men to crime—I have heard of love inflaming even to madness—I have read of passion rushing over law and religion to enjoyment; but never, until this, did I see *a frozen* avarice chilling the hot pulse of sensuality; and desire *pause before its* brutish draught, that it might add deceit to desolation! I need not tell you, that having provided in the very

execution of this article for its predetermined infringement; that knowing, as he must, any stipulation for the purchase of vice to be invalid by our law; that having in the body of this article inserted a provision against that previous pollution which his prudent caprice might invent hereafter, but which his own conscience, her universal character, and even his own desire for her possession, all assured him did not exist at the time, I need not tell you that he now urges the invalidity of that instrument; that he now presses that previous pollution; that he refuses from his splendid income the pittance of ten pounds to the wretch he has ruined, and spurns her from him to pine beneath the *reproaches* of a parent's mercy, or linger out a living death in the charnel houses of prostitution! You see, Gentlemen, to what designs like these may lead a man. I have no doubt, if Mr. Dillon had given his heart fair play, had let his own nature gain a moment's ascendancy, he would not have acted so; but there is something in guilt which infatuates its votaries forward; it may begin with a promise broken, it will end with the home depopulated. But there is something in a seducer of peculiar turpitude. I know of no character so vile, so detestable. He is the vilest of robbers, for he plunders happiness; the worst of murderers, for he murders innocence; his appetites are of the brute, his arts of the demon; the heart of the child and the corse of the parent are the foundations of the altar which he rears to a lust whose fires are the fires of hell, and whose incense is the agony of virtue! I hope Mr. Dillon's advocate may prove that he does not deserve to rank in such a class as this; but if he does, I hope the infatuation inseparably connected with such proceedings may tempt him to deceive you through the same plea by which he has defrauded his miserable dupe.

I dare him to attempt the defamation of a character, which, before his cruelties, never was even suspected. Happily, Gentlemen, happily for herself, this wretched creature, thus cast upon the world, appealed to the parental refuge she had forfeited. I need not describe to you the parent's anguish at the heart-rending discovery. God help the *poor* man when misfortune comes upon him! How few are his resources! how distant his consolation! You must not forget, Gentlemen, that it is not the unfortunate *victim herself* who appeals to you for compensation. *Her crimes, poor* wretch, have outlawed her from retri-

bution, and, however the temptations by which her erring nature was seduced, may procure an audience from the ear of mercy the stern morality of earthly law refuses their interference. No, no; it is the wretched parent who comes this day before you—his aged locks withered by misfortune, and his heart broken by crimes of which he was unconscious. He resorts to this tribunal, in the language of the law, claiming the value of his daughter's servitude; but let it not be thought that it is for her mere manual labours he solicits compensation. No, you are to compensate him for all he has suffered, for all he has to suffer, for feelings outraged, for gratifications plundered, for honest pride put to the blush, for the exiled endearments of his once happy home, for all those innumerable and instinctive ecstacies with which a virtuous daughter fills her father's heart, for which language is too poor to have a name, but of which nature is abundantly and richly eloquent! Do not suppose I am endeavouring to influence you by the power of declamation. I am laying down to you the British law, as liberally expounded and solemnly adjudged. I speak the language of the English Lord Eldon, a judge of great experience and greater learning.—(Mr. Phillips here cited several cases as decided by Lord Eldon.)—Such, Gentlemen, is the language of Lord Eldon. I speak, also, on the authority of our own Lord Avonmore, a judge who illuminated the bench by his genius, endeared it by his suavity, and dignified it by his bold uncompromising probity; one of those rare men, who hid the thorns of law beneath the brightest flowers of literature, and, as it were, with the wand of an enchanter, changed a wilderness into a garden! I speak upon that high authority—but I speak on other authority, paramount to all!—on the authority of nature rising up within the heart of man, and calling for vengeance upon such an outrage. God forbid, that, in a case of this kind, we were to grope our way through the ruins of antiquity, and blunder over statutes, and burrow through black letter in search of an interpretation which Providence has engraved in living letters on every human heart. Yes; if there be one amongst you blessed with a daughter, the smile of whose infancy still cheers your memory, and the promise of whose youth illuminates your hope, who has endeared the toils of your manhood, whom you look up to as the solace of your declining years, whose embrace alleviated the pang of separation, whose growing welcome hailed your

oft anticipated return—oh, if there be one amongst you, to whom those recollections are dear, to whom those hopes are precious—let him only fancy that daughter torn from his caresses by a seducer's arts, and cast upon the world, robbed of her innocence,—and then let him ask his heart, "*what money could reprise him!*"

The defendant, Gentleman, cannot complain that I put it thus to you. If, in place of seducing, he had assaulted this poor girl—if he had attempted by force what he has achieved by fraud, his life would have been the forfeit; and yet how trifling in comparison would have been the parent's agony! He has no right, then, to complain, if you should estimate this outrage at the price of his very existence! I am told, indeed, this gentleman entertains an opinion, prevalent enough in the age of a feudalism, as arrogant as it was barbarous, that the poor are only a species of property, to be treated according to interest or caprice; and that wealth is at once a patent for crime, and an exemption from its consequences. Happily for this land, the day of such opinions has passed over it—the eye of a purer feeling and more profound philosophy now beholds riches but as one of the aids to virtue, and sees in oppressed poverty only an additional stimulus to increased protection. A generous heart cannot help feeling, that in cases of this kind the poverty of the injured is a dreadful aggravation. If the rich suffer, they have much to console them; but when a poor man loses the darling of his heart—the sole pleasure with which nature blessed him—how abject, how cureless is the despair of his destitution! Believe me, Gentlemen, you have not only a solemn duty to perform, but you have an awful responsibility imposed upon you. You are this day, in some degree, trustees for the morality of the people—perhaps of the whole nation; for, depend upon it, if the sluices of immorality are once opened among the lower orders, the frightful tide, drifting upon its surface all that is dignified or dear, will soon rise even to the habitations of the highest. I feel, Gentlemen, I have discharged *my* duty—I am sure you will do *your's*. I repose my client with confidence in your hands; and most fervently do I hope, that when evening shall find you at your happy fire-side, surrounded by the sacred circle of your children, you may not feel the heavy curse gnawing at your heart, of having let loose, unpunished, the prowler that may devour them.

SPEECH OF MR. PHILLIPS

IN THE CASE OF

CREIGHTON *v.* TOWNSEND,

DELIVERED IN THE COURT OF COMMON PLEAS, DUBLIN

My Lord and Gentlemen,

I AM with my learned brethren counsel for the plaintiff. My friend Mr. Curran has told you the nature of the action. It has fallen to my lot to state more at large to you the aggression by which it has been occasioned. Believe me it is with no paltry affectation of undervaluing my very humble powers that I wish he had selected some more experienced, or at least less credulous advocate. I feel I cannot do my duty; I am not fit to address you; I have incapacitated myself; I know not whether any of the calumnies which have so industriously anticipated this trial, have reached your ears; but I do confess they did so wound and poison mine, that to satisfy my doubts I visited the house of misery and mourning, and the scene which set scepticism at rest, has set description at defiance. Had I not yielded to those interested misrepresentations, I might from my brief have sketched the fact, and from my fancy drawn the consequences; but as it is, reality rushes before my frighted memory, and silences the tongue and mocks the imagination. Believe me, Gentlemen, you are impannelled there upon no ordinary occasion; nominally, indeed, you are to repair a private wrong, and it is a wrong as deadly as human wickedness can inflict—as human weakness can endure; a wrong which annihilates the hope of the parent and the happiness of the child; which in one moment blights the fondest anticipations of the heart, and darkens the social hearth, and worse than depopulates the habitations of the happy! But, Gentlemen, high as it is, this is far from your exclusive *duty. You are to* do much more. You are to say whether an ex-

ample of such transcendant turpitude is to stalk forth for public imitation—whether national morals are to have the law for their protection, or *imported* crime is to feed upon impunity—whether chastity and religion are still to be permitted to linger in this province, or it is to become one loathsome den of legalized prostitution—whether the sacred volume of the Gospel, and the venerable statutes of the law are still to be respected, or converted into a pedestal on which the mob and the military are to erect the idol of a drunken adoration. Gentlemen, these are the questions you are to try; hear the facts on which your decision must be founded.

It is now about five-and-twenty years since the plaintiff, Mr. Creighton, commenced business as a slate merchant in the city of Dublin. His vocation was humble, it is true, but it was nevertheless honest; and though, unlike his opponent, the heights of ambition lay not before him, the path of respectability did—he approved himself a good man and a respectable citizen. Arrived at the age of manhood, *he* sought not the gratification of its natural desires by adultery or seduction. For *him* the home of honesty was sacred; for *him* the poor man's child was unassailed; no domestic desolation mourned *his* enjoyment; no anniversary of wo commemorated *his* achievements; from his own sphere of life naturally and honourably he selected a companion, whose beauty blessed his bed, and whose virtues consecrated his dwelling. Eleven lovely children blessed their union, the darlings of their heart, the delight of their evenings, and as they blindly anticipated, the prop and solace of their approaching age. Oh! SACRED WEDDED LOVE! how dear! how delightful! how divine are thy enjoyments! Contentment crowns thy board, affection glads thy fireside; passion, chaste but ardent, modest but intense, sighs o'er thy couch, the atmosphere of paradise! Surely, surely, if this consecrated rite can acquire from circumstances a factitious interest, 'tis when we see it cheering the poor man's home, or shedding over the dwelling of misfortune the light of its warm and lovely consolation. Unhappily, Gentlemen, it has that interest here. That capricious power which often dignifies the worthless hypocrite, as often wounds the industrious and the honest. The late ruinous contest, having in its career confounded all the proportions of society, and with its last gasp sighed famine and misfortune on the *world*, has cast my industrious client, with

too many of his companions, from competence to penury. Alas, alas, to him it left worse of its satellites behind it; it left the invader even of his misery—the seducer of his sacred and unspotted innocence. Mysterious Providence! was it not enough that sorrow robed the happy home in mourning—was it not enough that disappointment preyed upon its loveliest prospects—was it not enough that its little inmates cried in vain for bread, and heard no answer but the poor father's sigh, and drank no sustenance but the wretched mother's tears? Was this a time for passion, lawless, conscienceless, licentious passion, with its eye of lust, its heart of stone, its hand of rapine, to rush into the mournful sanctuary of misfortune, casting crime into the cup of wo, and rob the parents of their last wealth, their child, and rob the child of her only charm, her innocence! That this has been done I am instructed we shall prove: what requital it deserves, Gentlemen, you must prove to mankind.

The defendant's name I understand is Townsend. He is of an age when every generous blossom of the spring should breathe an infant freshness round his heart; of a family which should inspire not only high but hereditary principles of honour; of a profession whose very essence is a stainless chivalry, and whose *bought* and bounden duty is the protection of the citizen. Such are the advantages with which he appears before you—fearful advantages, because they repel all possible suspicion; but you will agree with me, most damning adversaries, if it shall appear that the generous ardour of his youth was chilled—that the noble inspiration of his birth was spurned—that the lofty impulse of his profession was despised—and that all that could grace, or animate, or ennoble, was used to his own discredit and his fellow-creature's misery.

It was upon the first of June last, that on the banks of the canal, near Portobello, Lieutenant Townsend first met the daughter of Mr. Creighton, a pretty, interesting girl, scarcely sixteen years of age. She was accompanied by her little sister, only four years old, with whom she was permitted to take a daily walk in that retired spot, the vicinity of her residence. The defendant was attracted by her appearance—he left his party, and attempted to converse with her; she repelled his advances—he immediately seized her infant sister by the hand, whom he held *as a kind of hostage* for an introduction to his victim. A pre-

possessing appearance, a modesty of deportment apparently quite incompatible with any evil design, gradually silenced her alarm, and she answered the common-place questions with which, on her way home, he addressed her. Gentlemen, I admit it was an innocent imprudence; the rigid rules of matured morality should have repelled such communication; yet, perhaps, judging even by that strict standard, you will rather condemn the familiarity of the intrusion in a designing adult, than the facility of access in a creature of her age and her innocence. They thus separated, as she naturally supposed, to meet no more. Not such, however, was the determination of her destroyer. From that hour until her ruin, he scarcely ever lost sight of her—he followed her as a shadow—he way-laid her in her walks—he interrupted her in her avocations—he haunted the street of her residence; if she refused to meet him, he paraded before her window at the hazard of exposing her first comparatively innocent imprudence to her unconscious parents. How happy would it have been had she conquered the timidity so natural to her age, and appealed at once to their pardon and their protection! Gentlemen, this daily persecution continued for *three months*—for three successive months, by every art, by every persuasion, by every appeal to her vanity and her passions, did he toil for the destruction of this unfortunate young creature. I leave you to guess how many during that interval might have yielded to the blandishments of manner, the fascinations of youth, the rarely resisted temptations of opportunity. For three long months she did resist them. She would have resisted them for ever, but for an expedient which is without a model—but for an exploit which I trust in God will be without an imitation. Oh, yes, he might have returned to his country, and did he but reflect, he would rather have rejoiced at the virtuous triumph of his victim, than mourn his own *soul-redeeming* defeat; he might have returned to his country, and told the cold-blooded libellers of this land that their speculations upon Irish chastity were prejudiced and proofless; that *in the wreck of all else* we had retained our honour; that though the national luminary had descended for a season, the streaks of its loveliness still lingered on our horizon; that the nurse of that genius, which abroad had redeemed the name, and dignified the nature of man, was to be found at home in the spirit *without a stain, and the purity* without a suspicion. He

might have told them truly that this did not result, as they would intimate, from the absence of passion or the want of civilization; that it was the combined consequence of education, of example, and of impulse! and that, though in all the revelry of enjoyment, the fair flowret of the Irish soil exhaled its fragrance and expanded its charms in the chaste and blessed beams of a virtuous affection, still it shrunk with an instinctive sensitiveness from the gross pollution of an unconsecrated contact!

Gentlemen, the common artifices of the seducer failed; the syren tones with which sensuality awakens appetite and lulls purity, had wasted themselves in air, and the intended victim, deaf to their fascination, moved along safe and untransformed. He soon saw, that young as she was, the vulgar expedients of vice were ineffectual; that the attractions of a glittering exterior failed; and that before she could be tempted to her sensual damnation, his tongue must learn, if not the words of wisdom, at least the speciousness of affected purity. He pretended an affection as virtuous as it was violent; he called God to witness the sincerity of his declarations; by all the vows which should for ever rivet the honourable, and could not fail to convince even the incredulous, he promised her marriage; over and over again he invoked the eternal denunciation, if he was perfidious. To her acknowledged want of fortune, his constant reply was, that he had an independence; that all he wanted was beauty and virtue; that he saw she had the one, that had proved she had the other. When she pleaded the obvious disparity of her birth, he answered, that he was himself only the son of an English farmer; that happiness was not the monopoly of rank or riches; that his parents would receive her as the child of their adoption; that he would cherish her as the charm of his existence. Specious as it was, even this did not succeed; she determined to await its avowal to those who had given her life, and who hoped to have made it immaculate by the education they had bestowed, and the example they had afforded. Some days after this he met her in her walks, for she could not pass her parental threshold without being intercepted. He asked where she was going;—she said, a friend knowing her fondness for books, had promised her the loan of some, and she was going to receive *them. He told* her he had abundance, that they were just at *his home, that* he hoped after what had passed, she would

feel no impropriety in accepting them. She was persuaded to accompany him. Arrived, however, at the door of his lodgings, she positively refused to go any farther; all his former artifices were redoubled; he called God to witness he considered her as his wife, and her character as dear to him as that of one of his sisters; he affected mortification at any suspicion of his purity; he told her if she refused her confidence to his honourable affection, the little infant who accompanied her was an inviolable guarantee for her protection.

Gentlemen, this wretched child did suffer her credulity to repose on his professions. Her theory taught her to respect the honour of a soldier; her love repelled the imputation that debased its object; and her youthful innocence rendered her as incredulous as she was unconscious of criminality. At first his behaviour corresponded with his professions; he welcomed her to the home of which he hoped she would soon become the inseparable companion; he painted the future joys of their domestic felicity, and dwelt with peculiar complacency on some heraldic ornament which hung over his chimney-piece, and which, he said, was the armorial ensign of his family! Oh! my Lord, how well would it have been had he but retraced the fountain of that document; had he recalled to mind the virtues it rewarded, the pure train of honours it associated, the line of spotless ancestry it distinguished, the high ambition its bequest inspired, the moral imitation it imperatively commanded! But when guilt once kindles within the human heart, all that is noble in our nature becomes parched and arid; the blush of modesty fades before its glare, the sighs of virtue fan its lurid flame, and every divine essence of our being but swells and exasperates its infernal conflagration.

Gentlemen, I will not disgust this audience; I will not debase myself by any description of the scene that followed; I will not detail the arts, the excitements, the promises, the pledges with which deliberate lust inflamed the passions, and finally overpowered the struggles of innocence and of youth. It is too much to know that tears could not appease—that misery could not affect —that the presence and the prayers of an infant could not awe him; and that the wretched victim, between the ardour of passion and the repose of love, sunk at length, inflamed, exhausted, and confiding, *beneath the heartless* grasp of an unsympathizing *sensuality.*

The appetite of the hour thus satiated, at a temporal, perhaps an eternal hazard, he dismissed the sisters to their unconscious parents, not, however, without extorting a promise, that on the ensuing night Miss Creighton would desert her home for ever, for the arms of a fond, affectionate, and faithful husband. Faithful, alas! but only to his appetites, he did seduce her from that "sacred home," to deeper guilt, to more deliberate cruelty.

After a suspense, comparatively happy, her parents became acquainted with her irrevocable ruin. The miserable mother, supported by the mere strength of desperation, rushed half phrenzied to the castle, where Mr. Townsend was on duty. "Give me back my child!" was all she could articulate. The parental ruin struck the spoiler almost speechless. The few dreadful words, "*I have your child*," withered her heart up with the horrid joy that death denied its mercy, that her daughter lived, but lived, alas, to infamy. She could neither speak nor hear; she sunk down convulsed and powerless. As soon as she could recover to any thing of effort, naturally did she turn to the residence of Mr Townsend; his orders had anticipated her—the sentinel refused her entrance. She told her sad narration, she implored his pity; with the eloquence of grief she asked him, had *he home*, or *wife* or *children*. "Oh, Holy Nature! thou didst not plead in vain!" even the rude soldier's heart relented. He admitted her by stealth, and she once more held within her arms the darling hope of many an anxious hour; duped, desolate, degraded it was true—but still—but still "*her child*." Gentlemen, if the parental heart cannot suppose what followed, how little adequate am I to paint it. Home this wretched creature could not return; a seducer's mandate, and a father's anger equally forbade it. But she gave whatever consolation she was capable; she told the fatal tale of her undoing—the hopes, the promises, the studied specious arts that had seduced her; and with a desperate credulity still watched the light that, glimmering in the distant vista of her love, mocked her with hope, and was to leave her to the tempest. To all the prophecies of maternal anguish, she would still reply, "Oh, no—in the eye of Heaven he is my husband; he took me from my home, my happiness, and you; but still he pledged to me a soldier's honour—but he assured me with a Christian's conscience; for three long months I heard his vows of love; he is honourable and will not deceive; he is human and

cannot desert me." Hear, Gentlemen, hear, I beseech you, how this innocent confidence was returned. When her indignant father had resorted to Lord Forbes, the commander of the forces, and to the noble and learned head of this Court, both of whom received him with a sympathy that did them honour, Mr. Townsend sent a brother officer to inform her she must quit his residence and take lodgings. In vain she remonstrated, in vain she reminded him of her former purity, and of the promises that betrayed it. She was literally turned out *at night-fall* to find whatever refuge the God of the shelterless might provide for her. Deserted and disowned, how naturally did she turn to the once happy home, whose inmates she had disgraced, and whose protection she had forfeited! how naturally did she think the once familiar and once welcome avenues looked frowning as she passed! how naturally did she linger like a reposeless spectre round the memorials of her living happiness! Her heart failed her; where a parent's smile had ever cheered her, she could not face the glance of shame, or sorrow, or disdain. She returned to seek her seducer's pity even till the morning. Good God! how can I disclose it!—the very guard had orders to refuse her access; even by the rabble soldiery she was cast into the street, amid the night's dark horrors, the victim of her own credulity, the outcast of another's crime, to seal her guilty woes with suicide, or lead a living death amid the tainted sepulchres of a promiscuous prostitution! Far, far am I from sorry that it was so. Horrible beyond thought as is this aggravation, I only hear in it the voice of the Deity in thunder upon the crime. Yes, yes; it is the present God arming the vicious agent against the vice, and terrifying from its conception by the turpitude to which it may lead. But what aggravation does seduction need! Vice is its essence, lust its end, hypocrisy its instrument, and innocence its victim. Must I detail its miseries? Who depopulates the home of virtue, making the child an orphan and the parent childless? Who rests its crutch from the tottering helplessness of piteous age? Who wrings its happiness from the heart of youth? Who shocks the vision of the public eye? Who infects your very thoroughfares with disease, disgust, obscenity, and profaneness? Who pollutes the harmless scenes where modesty resorts for mirth, and toil for recreation, with sights that stain the pure and shock the *sensitive? Are these* the phrases of an interested ad-

vocacy? is there one amongst you but has witnessed their verification? Is there one amongst you so fortunate, or so secluded, as not to have wept over the wreck of health, and youth, and loveliness, and talent, the fatal trophies of the seducer's triumph —some form, perhaps, where every grace was squandered, and every beauty paused to waste its bloom, and every beam of mind and tone of melody poured their profusion on the public wonder; all that a parent's prayer could ask, or a lover's adoration fancy; in whom even pollution looked so lovely, that virtue would have made her more than human? Is there an epithet too vile for such a spoiler? Is there a punishment too severe for such depravity? I know not upon what complaisance this English seducer may calculate from a jury of this country: I know not, indeed, whether he may not think he does your wives and daughters some honour by their contamination. But I know well what reception he would experience from a jury of his own country. I know that in such general execration do they view this crime, they think no possible plea a palliation! no, not the mature age of the seduced; not her previously protracted absence from her parents; not a levity approaching almost to absolute guilt; not an indiscretion in the mother, that bore every colour of connivance; and in this opinion they have been supported by all the venerable authorities with whom age, integrity, and learning have adorned the judgment-seat.

Gentlemen, I come armed with these authorities. In the case of Tullidge against Wade, my Lord, it appeared the person seduced was thirty years of age, and long before absent from her home; yet, on a motion to set aside the verdict for excessive damages, what was the language of Chief Justice Wilmot? "I regret," said he, "that they were not greater; though the plaintiff's loss did not amount to twenty shillings, the jury were right in giving ample damages, because such actions should be encouraged for example's sake." Justice Clive wished they had given twice the sum, and in this opinion the whole bench concurred. *There* was a case where the girl was of mature age, and living apart from her parents; *here*, the victim is almost a child, and was never for a moment separated from her home. Again, in the case of "Bennet against Alcot," on a similar motion, grounded *on the apparently* overwhelming fact, that the mother of the *girl had actually* sent the defendant into her daughter's bed-

chamber, where the criminality occurred, Justice Buller declared, "he thought the parent's indiscretion no excuse for the defendant's culpability;" and the verdict of 200*l.* damages was confirmed. *There* was a case of literal connivance: *here*, will they have the hardihood to hint even its suspicion? You all must remember, Gentlemen, the case of our own countryman, Captain Gore, against whom, only the other day, an English jury gave a verdict of 1,500*l.* damages, though it was proved that the person alleged to have been seduced was herself the seducer, going even so far as to throw gravel up at the windows of the defendant; yet Lord Ellenborough refused to disturb the verdict Thus you may see I rest not on my own proofless and unsupported dictum. I rely upon grave decisions and venerable authorities—not only on the indignant denunciation of the moment, but on the deliberate concurrence of the enlightened and the dispassionate. I see my learned opponent smile. I tell him I would not care if the books were an absolute blank upon the subject. I would then make the *human heart* my authority! I would appeal to the bosom of every man who hears me, whether such a crime should grow unpunished into a precedent; whether innocence should be made the subject of a brutal speculation; whether the sacred seal of filial obedience, upon which the Almighty Parent has affixed his eternal fiat, should be violated by a blasphemous and selfish libertinism!

Gentlemen, if the cases I have quoted, palliated as they were, have been humanely marked by ample damages, what should you give here where there is nothing to excuse—where there is every thing to aggravate! The seduction was deliberate, it was three months in progress, its victim was almost a child, it was committed under the most alluring promises, it was followed by a deed of the most dreadful cruelty; but, above all, it was the act of a man commissioned by his own country, and paid by this, for the enforcement of the laws, and the preservation of society. No man more respects than I do the well-earned reputation of the British army;

> "It is a school
> Where every principle tending to honour
> Is taught—*if followed.*"

But in the name of that distinguished army, I here solemnly appeal against an *act, which would blight* its greenest laurels, and

lay its trophies prostrate in the dust. Let them war, but be it not on domestic happiness; let them invade, but be their country's hearths inviolable; let them achieve a triumph wherever their banners fly, but be it not over morals, innocence, and virtue. I know not by what palliation the defendant means to mitigate this enormity;—will he plead her youth? it should have been her protection.—Will he plead her levity? I deny the fact; but even were it true, what is it to him? what right has any man to speculate on the temperature of your wives and your daughters, that he may defile your bed, or desolate your habitation? Will he plead poverty? I never knew a seducer or an adulterer that did not. He should have considered that before. But is poverty an excuse for crime? Our law says, he who has not a purse to pay for it, must suffer for it in his person. It is a most wise declaration; and for my part, I never hear such a person plead poverty, that my first emotion is not a thanksgiving, that Providence has denied, at least, the instrumentality of wealth to the accomplishment of his purposes. Gentlemen, I see you agree with me. I waive the topic; and I again tell you, that if what I know will be his chief defence were true, it should avail him nothing. He had no right to speculate on this wretched creature's levity to ruin *her*, and still less to ruin *her family*. Remember, however, Gentlemen, that even had this wretched child been indiscreet, it is not in *her* name we ask for reparation; no, it is in the name of the parents her seducer has heart-broken; it is in the name of the poor helpless family he has desolated; it is in the name of that misery, whose sanctuary he has violated; it is in the name of law, virtue, and morality; it is in the name of that country whose fair fame foreign envy will make responsible for this crime; it is in the name of nature's dearest, tenderest sympathies; it is in the name of all that gives your toil an object, and your ease a charm, and your age a hope—I ask from you the value *of the poor man's child.*

SPEECH OF MR. PHILLIPS

IN THE CASE OF

BLAKE *v.* WILKINS:

DELIVERED IN THE COUNTY COURT-HOUSE, GALWAY.

May it please your Lordship,

THE Plaintiff's Counsel tell me, Gentlemen, most unexpectedly, that they have closed his case, and it becomes my duty to state to you that of the defendant. The nature of this action, you have already heard. It is one which, in my mind, ought to be very seldom brought, and very sparingly encouraged. It is founded on circumstances of the most extreme delicacy, and it is intended to visit with penal consequences the non-observance of an engagement, which is of the most paramount importance to society, and which of all others, perhaps, ought to be the most unbiassed,—an engagement which, if it be voluntary, judicious, and disinterested, generally produces the happiest effects; but which, if it be either unsuitable or compulsory, engenders not only individual misery, but consequences universally pernicious. There are few contracts between human beings which should be more deliberate than that of marriage. I admit it should be very cautiously promised; but, even when promised, I am far from conceding that it should invariably be performed; a thousand circumstances may form an impediment; change of fortune may render it imprudent, change of affection may make it culpable. The very party to whom the law gives the privilege of complaint has perhaps the most reason to be grateful,—grateful that its happiness has not been surrendered to caprice; grateful that religion has not constrained an unwilling acquiescence, or made an unavoidable desertion doubly criminal; grateful that an offspring has not been sacrificed to the indelicate and ungenerous enforcement; grateful that an innocent secret disinclination did not too late evince itself in an irresistible and irremediable disgust. You will agree with me, however, that if there exists any excuse for such an action, it is on

the side of the female; because every female object being more exclusively domestic, such a disappointment is more severe in its visitation; because the very circumstance concentrating their feelings renders them naturally more sensitive of a wound; because their best treasure, their reputation, may have suffered from the intercourse; because their chances of reparation are less, and their habitual seclusion makes them feel it more; because there is something in the desertion of their helplessness which almost immerges the illegality in the unmanliness of the abandonment. However, if a man seeks to enforce this engagement, every one feels some indelicacy attached to the requisition. I do not inquire into the comparative justness of the reasoning, but does not every one feel that there appears some meanness in forcing a female into an alliance? Is it not almost saying, "I will expose to public shame the credulity on which I practised, or you must pay to me in monies numbered, the profits of that heartless speculation; I have gambled with your affections, I have secured your bond, I will extort the penalty either from your purse or your reputation!" I put a case to you where the circumstances are reciprocal; where age, fortune, situation, are the same; where there is no disparity of years to make the supposition ludicrous; where there is no disparity of fortune to render it suspicious. Let us see whether the present action can be so palliated, or whether it does not exhibit a picture of fraud and avarice, and meanness and hypocrisy, so laughable, that it is almost impossible to criticise it, and yet so debasing that human pride almost forbids its ridicule.

It has been left me to defend my unfortunate old client from the double battery of Love and of Law, which at the age of sixty-five has so unexpectedly opened on her. Oh, Gentlemen, how vain-glorious is the boast of beauty! How misapprehended have been the charms of youth, if years and wrinkles can thus despoil their conquests, and depopulate the navy of its prowess, and beguile the bar of its eloquence! How mistaken were all the amatory poets from Anacreon downwards, who preferred the bloom of the rose and the thrill of the nightingale, to the saffron hide and dulcet treble of sixty-five! Even our own sweet bard has had the folly to declare, that

> "*He once* had heard tell of an amorous youth,
> *Who was* caught in his grandmother's bed;

But owns he had ne'er such a liquorish tooth,
As to wish to be there in his stead."

Royal wisdom has said, that we live in a "NEW ERA." *The reign of old women has commenced;* and if Johanna Southcote converts England to her creed, why should not Ireland, less pious perhaps, but at least equally passionate, kneel before the shrine of the irresistible WIDOW WILKINS. It appears, Gentlemen, to have been her happy fate to have subdued particularly the death-dealing professions. Indeed in the love episodes of the heathen mythology, Mars and Venus were considered as inseparable. I know not whether any of you have ever seen a very beautiful print representing the fatal glory of Quebec, and the last moments of its immortal conqueror—if so, you must have observed the figure of the staff physician, in whose arms the hero is expiring—that identical personage, my Lord, was the happy swain, who, forty or fifty years ago, received the reward of his valour and his skill *in the virgin hand of my venerable client!* The Doctor lived something *more than a century*, during a great part of which Mrs. Wilkins was his companion—alas, Gentlemen, long as he lived, he lived not long enough to behold her beauty—

"That beauty, like the Aloe flower,
But bloomed and blossomed at fourscore."

He was, however, so far fascinated as to bequeath to her the legacies of his patients, when he found he was predoomed to follow them. To this circumstance, very far be it from me to hint, that Mrs. W. is indebted for any of her attractions. Rich, however, she undoubtedly was, and rich she would still as undoubtedly have continued, had it not been for her intercourse with the family of the plaintiff. I do not impute it as a crime to them that they happened to be necessitous, but I do impute it as both criminal and ungrateful, that after having lived on the generosity of their friend, after having literally exhausted her most prodigal liberality, they should drag her infirmities before the public gaze, vainly supposing that they could hide their own contemptible avarice in the more prominent exposure of her melancholy dotage The father of the plaintiff, it cannot be unknown to you, was for many years in the most indigent situation. Perhaps it is not a matter of concealment either, that he found in Mrs. Wilkins a generous benefactress. She assisted and supported him, until at last his increasing necessities reduced him to take refuge in an act *of insolvency. During their intimacy*, frequent allusion was made

to a son whom Mrs. Wilkins had never seen since he was a child, and who had risen to a lieutenancy in the navy, under the patronage of their relative, Sir BENJAMIN BLOOMFIELD. In a parent's panegyric, the gallant lieutenant was of course all that even hope could picture. Young, gay, heroic, and disinterested, the pride of the navy, the prop of the country, independent as the gale that wafted, and bounteous as the wave that bore him. I am afraid that it is rather an anti-climax to tell you after this, that he is the present Plaintiff. The eloquence of Mrs. Blake was not exclusively confined to her encomiums on the lieutenant. She diverged at times into an episode on the matrimonial felicities, painted the joy of passion and delights of love, and obscurely hinted that Hymen, with his torch, had an exact personification in her son Peter, bearing a match light in His Majesty's ship the Hydra. —While these contrivances were practising on Mrs. Wilkins, a bye-plot was got up on board the Hydra, and Mr. Blake returned to his mourning country, influenced, as he says, by his partiality for the Defendant, but in reality compelled by ill health and disappointments, added, perhaps, to his mother's very absurd and avaricious speculations. What a loss the navy had of him, and what a loss he had of the navy! Alas, Gentlemen, he could not resist his affection for a female he never saw. Almighty love eclipsed the glories of ambition—Trafalgar and St. Vincent flitted from his memory—he gave all up for woman, as Mark Antony did before him; and, like the Cupid in Hudibras, he

> "————took his stand
> Upon a widow's jointure land—
> His tender sigh and trickling tear
> Longed for five hundred pounds a year;
> And languishing desires were found
> Of Statute, Mortgage, Bill, and Bond!"

—Oh, Gentlemen, only imagine him on the lakes of North America! Alike to him the varieties of season or the vicissitudes of warfare. One sovereign image monopolizes his sensibilities. Does the storm rage? the Widow Wilkins outsighs the whirlwind. Is the ocean calm? its mirror shows him the lovely Widow Wilkins. Is the battle won? he thins his laurel that the Widow Wilkins may interweave her myrtles. Does the broadside thunder? he invokes the Widow Wilkins!

> "*A sweet little Cherub* she sits up aloft
> *To keep* watch for the life of poor Peter!"

—*Alas, how much* he is to be pitied! How amply he should be

recompensed! Who but must mourn his sublime, disinterested, sweet-souled patriotism! Who but must sympathize with his pure, ardent, generous affection!—affection too confiding to *require an interview!*—affection too warm to *wait even for an introduction!* Indeed his Amanda herself seemed to think his love was most desirable at a distance, for at the very first visit after his return he was refused admittance. His captivating charmer was then sick and nurse-tended at her brother's house, after a winter's confinement, reflecting, most likely, rather on her funeral than her wedding. Mrs. Blake's avarice instantly took the alarm, and she wrote the letter, which I shall now proceed to read to you.

[Mr. Vandeleur,—My Lord, unwilling as I am to interrupt a statement which seems to create so universal a sensation, still I hope your Lordship will restrain Mr. Phillips from reading a letter which cannot hereafter be read in evidence.

Mr. O'Connel rose for the purpose of supporting the propriety of the course pursued by the Defendant's Counsel, when]

Mr. Phillips resumed—My Lord, although it is utterly impossible for the learned Gentleman to say, in what manner hereafter this letter might be made evidence, still my case is too strong to require any cavilling upon such trifles. I am content, to save the public time, and waive the perusal of the letter. However, they have now given its suppression an importance which perhaps its production could not have procured for it. You see, Gentlemen, what a case they have when they insist on the withholding of the documents which originated with themselves. I accede to their very politic interference. I grant them, since they entreat it, the *mercy of my silence.* Certain, it is, however, that a letter was received from Mrs. Blake; and that almost immediately after its receipt, Miss Blake intruded herself at Brownville, where Mrs. Wilkins was—remained two days—lamented bitterly her not having appeared to the lieutenant, when he called to visit her—said that her poor mother had set her heart on an alliance—that she was sure, *dear woman,* a disappointment would be the death of her; in short, that there was no alternative but the tomb or the altar! To all this Mrs. Wilkins only replied, how totally ignorant the parties most interested were of each other, and that were she even inclined to connect herself with a stranger (poor old fool!) the debts in which her generosity *to the family had* already involved her, formed, at

least for the present, an insurmountable impediment. This was not sufficient. In less than a week, the indefatigable Miss Blake returned to the charge, actually armed with an old family-bond to pay off the incumbrances, and a renewed representation of the mother's suspense and the brother's desperation. You will not fail to observe, Gentlemen, that while the female conspirators were thus at work, the lover himself *had never even seen the object of idolatry.* Like the maniac in the farce, he fell in love with the picture of his grandmother. Like a prince of the blood, he was willing to woo and to be wedded *by proxy.* For the gratification of his avarice, he was contented to embrace age, disease, infirmity, and widowhood—to bind his youthful passions to the carcass for which the grave was opening—to feed by anticipation on the uncold corpse, and cheat the worm of its reversionary corruption. Educated in a profession proverbially generous, he offered to barter every joy for money! Born in a country ardent to a fault, he advertised his happiness to the highest bidder! and he now solicits an honourable jury to become the panders to this heartless cupidity! Thus beset, harrassed, conspired against, their miserable victim entered into the contract you have heard —a contract conceived in meanness, extorted by fraud, and sought to be enforced by the most profligate conspiracy. Trace it through every stage of its progress, in its origin, its means, its effects— from the parent contriving it through the sacrifice of her son, and forwarding it through the indelicate instrumentality of her daughter, down to the son himself unblushingly acceding to the atrocious combination by which age was to be betrayed, and youth degraded, and the odious union of decrepit lust and precocious avarice blasphemously consecrated by the solemnities of religion! Is this the example which, as parents, you would sanction? Is this the principle you would adopt yourselves? Have you never witnessed the misery of an unmatched marriage? Have you never worshipped the bliss by which it has been hallowed, when its torch, kindled at affection's altar, gives the noon of life its warmth and its lustre, and blesses its evening with a more chastened, but not less lovely illumination? Are you prepared to say, that this rite of heaven, revered by each country, cherished by each sex, the solemnity of every Church, and the *Sacrament of one,* shall be profaned into the ceremonial of an *obscene and soul-degrading* avarice!

No sooner was this contract, the device of their covetousness and the evidence of their shame, swindled from the wretched object of this conspiracy, than its motive became apparent; they avowed themselves the keepers of their melancholy victim; they watched her movements; they dictated her actions; they forbade all intercourse with her own brother; they duped her into accepting bills, and let her be arrested for the amount. They exercised the most cruel and capricious tyranny upon her, now menacing her with the publication of her follies, and now with the still more horrible enforcement of a contract that thus betrayed its anticipated inflictions! Can you imagine a more disgusting exhibition of how weak and how worthless human nature may be, than this scene exposes? On the one hand, a combination of sex and age, disregarding the most sacred obligations, and trampling on the most tender ties, from a mean greediness of lucre, that neither honour or gratitude or nature could appease, "*Lucri bonus est odor exrequalibet.*" On the other hand, the poor shrivelled relic of what once was health, and youth, and animation, sought to be embraced in its infection, and caressed in its infirmity—crawled over and corrupted by the human reptiles, before death had shovelled it to the less odious and more natural vermin of the grave! What an object for the speculations of avarice! What an angel for the idolatry of youth! Gentlemen, when this miserable dupe to her own doting vanity and the vice of others, saw how she was treated—when she found herself controlled by the mother, beset by the daughter, beggared by the father, and held by the son as a kind of windfall, that, too rotten to keep its hold, had fallen at his feet to be squeezed and trampled; when she saw the intercourse of her relatives prohibited, the most trifling remembrances of her ancient friendship denied, the very exercise of her habitual charity denounced; when she saw that all she was worth was to be surrendered to a family confiscation, and that she was herself to be *gibbetted in the chains of wedlock*, an example to every superannuated dotard, upon whose plunder the ravens of the world might calculate, she came to the wisest determination of her life, and decided that her fortune should remain at her own disposal. Acting upon this decision, she wrote to Mr. Blake, complaining of the cruelty with which she had been treated, desiring the restoration of the contract *of which she had been* duped, and declaring, as the only

means of securing respect, her final determination as to the control over her property. To this letter, addressed to the son, a verbal answer (mark the conspiracy) was returned from the mother, withholding all consent, unless the property was settled on her family, but withholding the contract at the same time. The wretched old woman could not sustain this conflict. She was taken seriously ill, confined for many months in her brother's house, from whom she was so cruelly sought to be separated, until the debts in which she was involved and a recommended change of scene transferred her to Dublin. There she was received with the utmost kindness by her relative, Mr. Mac Namara, to whom she confided the delicacy and distress of her situation. That gentleman, acting at once as her agent and her friend, instantly repaired to Galway, where he had an interview with Mr. Blake. This was long before the commencement of any action. A conversation took place between them on the subject, which must, in my mind, set the present action at rest altogether; because it must show that the non-performance of the contract originated entirely with the plaintiff himself. Mr. Mac Namara inquired, whether it was not true, that Mr. Blake's own family declined any connection, unless Mrs. Wilkins consented to settle on them the entire of her property? Mr. Blake replied it was. Mr. Mac Namara rejoined, that her contract did not bind her to any such extent. "No," replied Mr. Blake, "I know it does not; however, tell Mrs. Wilkins that I understand she has about 580*l.* a year, *and I will be content to settle the odd* 80*l. on her by way of pocket money.*" Here, of course, the conversation ended, which Mr. Mac Namara detailed, as he was desired, to Mrs. Wilkins, who rejected it with the disdain, which, I hope, it will excite in every honourable mind. A topic, however, arose during the interview, which unfolds the motives and illustrates the mind of Mr. Blake more than any observation which I can make on it. As one of the inducements to the projected marriage, he actually proposed the prospect of a 50*l.* annuity as an officer's widow's pension, to which she would be entitled in the event of his decease! I will not stop to remark on the delicacy of this inducement—I will not dwell on the ridicule of the anticipation—I will not advert to the glaring dotage on *which he speculated*, when he could seriously hold out to a woman *of her years* the prospect of such an improbable survivor-

ship. But I do ask you, of what materials must the man be composed who could thus debase the national liberality! What! was the recompense of that lofty heroism which has almost appropriated to the British navy the monopoly of maritime renown—was that grateful offering which a weeping country pours into the lap of its patriot's widow, and into the cradle of its warrior's orphan—was that generous consolation with which a nation's gratitude cheers the last moments of her dying hero, by the portraiture of his children sustained and ennobled by the legacy of his achievements, to be thus deliberately perverted into the bribe of a base, reluctant, unnatural prostitution! Oh! I know of nothing to parallel the self-abasement of such a deed, except the audacity that requires an honourable jury to abet it. The following letter from Mr. Anthony Martin, Mr. Blake's attorney, unfolded the future plans of this unfeeling conspiracy. Perhaps the Gentlemen would wish also to cushion this document? They do not. Then I shall read it. The letter is addressed to Mrs. Wilkins.

"*Galway, Jan.* 9, 1817.

"MADAM,—I have been applied to, professionally, by Lieutenant Peter Blake, to take proceedings against you on rather *an unpleasant occasion;* but, from every letter of your's, and other documents, together with the material and irreparable loss Mr. Blake has sustained in his professional prospects by means of *your proposals to him*, makes it indispensably necessary for him to get remuneration from you. Under these circumstances, I am obliged to say, that I have his directions to take immediate proceedings against you, unless he is in some measure compensated for your breach of promise to him. I should feel happy that you would save me the necessity of acting professionally by *settling* the business, [You see, Gentlemen, money, money, money, runs through the whole amour,] and not suffer it to come to a public investigation, particularly, as I conceive, from the legal advice Mr. Blake has got, together with all I have seen, it will ultimately terminate most *honourably* to his advantage, and to your *pecuniary* loss.—I have the honour to remain, Madam, your very humble servant,

"ANTHONY MARTIN."

Indeed, I think Mr. Anthony Martin is mistaken. Indeed, I think no twelve men, upon their oaths will say (even admitting the *truth of all he asserts)* that it was *honourable* for a British

officer to abandon the navy on such a speculation—to desert so noble a profession—to forfeit the ambition it ought to have associated—the rank to which it leads—the glory it may confer, for the purpose of extorting from an old woman he never saw, the purchase-money of his degradation! But I rescue the Plaintiff from this disgraceful imputation. I cannot believe that a member of a profession not less remarkable for the valour than the generosity of its spirit—a profession as proverbial for its profusion in the harbour as for the prodigality of its life-blood on the wave—a profession ever willing to fling money to the winds, and only anxious that they should waft through the world its immortal banner *crimsoned with the record of a thousand victories!* No, no, Gentlemen; notwithstanding the great authority of Mr. Anthony Martin, I cannot readily believe that any man could be found to make the high honour of this noble service a base, mercenary, sullen pander to the prostitution of his youth! The fact is, that increasing ill health, and the improbability of promotion, combined to induce his retirement on half pay. You will find this confirmed by the date of his resignation, which was immediately after the battle of Waterloo, which settled (no matter how) the destinies of Europe. His constitution was declining, his advancement was annihilated, and, as a forlorn hope, he bombarded the Widow Wilkins!

> "War thoughts had left their places vacant:
> In their room came, thronging, soft and amorous desires
> All telling him how fair—young Hero was."

He first, Gentlemen, attacked her fortune *with herself*, through the Artillery of the Church, and having failed in that, he now attacks her fortune *without herself*, through the assistance of the law. However, if I am instructed rightly, he has nobody but himself to blame for his disappointment. Observe, I do not vouch for the authenticity of the fact; but I do certainly assure you, that Mrs. Wilkins was persuaded of it. You know the proverbial frailty of our nature. The gallant lieutenant was not free from it. Perhaps you imagine, that some younger, or according to his taste, some *older* fair one, weaned him from the widow. Indeed they did not. He had no heart to lose, and yet (can you solve the the paradox?) his infirmity was LOVE. As the Poet says—

"LOVE—STILL—LOVE."

No, it was not to VENUS, it was to BACCHUS, he sacrificed. With

an eastern idolatry he commenced at day-light, and so persevering was his piety till the shades of night, that when he was not on his knees, *he could scarcely be said to be on his legs!* When I came to this passage, I could not avoid involuntarily exclaiming, Oh, Peter, Peter, whether it be in liquor or in love—

"None but thyself can be thy parallel!"

I see by your smiling, Gentlemen, that you correct my error. I perceive your *classic* memories recurring to, perhaps, the only prototype to be found in history. I beg his pardon. I should not have overlooked

"————the immortal Captain Wattle,
Who was *all* for love and—*a little for the bottle.*"

Ardent as our fair ones have been announced to be, they do not prefer a flame that is so exclusively *spiritual.* Widow Wilkins, no doubt, did not choose to be singular. In the words of the bard, and, my Lord, I perceive you excuse my dwelling so much on the authority of the muses, because really, on this occasion, the minstrel seems to have combined the powers of poetry with the spirit of prophecy—in the very words of the Bard,

"He asked her, would she marry him—Widow Wilkins answered No—
Then said he, I'll to the Ocean rock, I'm ready for the slaughter,
Oh!—I'll shoot at my sad image, as it's sighing in the water—
Only think of Widow Wilkins, saying—Go, Peter—Go!"

But, Gentlemen, let us try to be serious, and seriously give me leave to ask you, on what grounds does he solicit your verdict? Is it for the loss of his profession? Does he deserve compensation if he abandoned it for such a purpose—if he deserted at once his duty and his country to trepan the weakness of a wealthy dotard? But did he, (base as the pretence is,) did he do so? Is there nothing to cast any suspicion on the pretext? nothing in the aspect of public affairs? In the universal peace? in the uncertainty of being put in commisson? in the downright impossibility of advancement? Nothing to make you suspect that he imputes as a contrivance, what was the manifest result of an accidental contingency? Does he claim on the ground of *sacrificed affection?* Oh, Gentlemen, *only fancy what he has lost*—if it were but the *blessed raptures of the bridal night!* Do not suppose I am going to describe it; I shall leave it to the learned Counsel he has selected to compose his epithalamium. I shall not exhibit the *venerable trembler*—*at once* a relic and a relict; with a grace

for every year and a cupid in every wrinkle—affecting to shrink from the flame of his impatience, and fanning it with the ambrosial sigh of sixty-five! I cannot paint the fierce meridian transports of the honey moon, gradually melting into a more chastened and permanent affection—every *nine months* adding a link to the chain of their delicate embraces, until, too soon, Death's broadside lays the Lieutenant low, consoling, however, his patriarchal charmer, (old enough at the time to be the *last wife of Methusalem*) with a fifty pound annuity, being *the balance of his glory against his Majesty's Ship, the Hydra!*

Give me leave to ask you, is this one of the cases, to meet which, this very rare and delicate action was intended? Is this a case where a riciprocity of circumstances, of affection, or of years, throw even a shade of rationality over the contract? Do not imagine I mean to insinuate, that under no circumstances ought such a proceeeding to be adopted. Do not imagine, though I say this action belongs more naturally to a female, its adoption can never be justified by one of the other sex. Without any great violence to my imagination, I can suppose a man in the very spring of life, when his sensibilities are most acute, and his passions most ardent, attaching himself to some object, young, lovely, talented, and accomplished, concentrating, as he thought, every charm of personal perfection, and in whom those charms were only heightened by the modesty that veiled them; perhaps his preference was encouraged; his affection returned; his very sigh echoed until he was conscious of his existence but by the soul creating sympathy—until the world seemed but the residence of his love, and that love the principle that gave it animation—until, before the smile of her affection, the whole spectral train of sorrow vanished, and this world of wo, with all its cares and miseries and crimes, brightened as by enchantment into anticipated paradise! It might happen that this divine affection might be crushed, and that heavenly vision wither into air at the hell-endangered pestilence of parental avarice, leaving youth and health, and worth and happiness, a sacrifice to its unnatural and mercenary caprices. Far am I from saying, that such a case would not call for expiation, particularly where the punishment fell upon the very vice in which the ruin had originated. *Yet even there* perhaps an honourable mind would rather despise *the mean, unmerited* desertion. Oh, I am sure a sensitive mind

would rather droop uncomplaining into the grave, than solicit the mockery of a worldly compensation! But in the case before you, is there the slightest ground for supposing any affection? Do you believe, if any accident bereft the defendant of her fortune, that her persecutor would be likely to retain his constancy? Do you believe that the marriage thus sought to be enforced, was one likely to promote morality and virtue? Do you believe that those delicious fruits by which the struggles of social life are sweetened, and the anxieties of parental care alleviated, were ever once anticipated? Do you think that such an union could exhibit those reciprocities of love and endearments by which this tender rite should be consecrated and recommended? Do you not rather believe that it originated in avarice—that it was promoted by conspiracy—and that it would not perhaps have lingered through some months of crime, and then terminated in a heartless and disgusting abandonment?

Gentlemen, these are the questions which you will discuss in your Jury-room. I am not afraid of your decision. Remember I ask you for no mitigation of damages. Nothing less than your verdict will satisfy me. By that verdict you will sustain the dignity of your sex—by that verdict you will uphold the honour of the national character—by that verdict you will assure, not only the immense multitude of both sexes that thus so unusually crowds around you, but the whole rising generation of your country, THAT MARRIAGE CAN NEVER BE ATTENDED WITH HONOUR, OR BLESSED WITH HAPPINESS, IF IT HAS NOT ITS ORIGIN IN MUTUAL AFFECTION. I surrender with confidence my case to your decision.

[The damages were laid at 5000*l.* and the Plaintiff's Counsel were, in the end, contented to withdraw a Juror, and let him pay his own Costs.]

A CHARACTER

OF

NAPOLEON BUONAPARTE,

DOWN TO THE PERIOD OF HIS EXILE TO ELBA.

HE IS FALLEN!—WE may now pause before that splendid prodigy, which towered amongst us like some ancient ruin, whose frown terrified the glance its magnificence attracted.

Grand, gloomy, and peculiar, he sat upon the throne, a sceptred hermit, wrapt in the solitude of his own originality.

A mind bold, independent, and decisive—a will, despotic in its dictates—an energy that distanced expedition, and a conscience pliable to every touch of interest, marked the outline of this extraordinary character—the most extraordinary, perhaps, that, in the annals of this world, ever rose, or reigned, or fell.

Flung into life, in the midst of a Revolution, that quickened every energy of a people who acknowledged no superior, he commenced his course, a stranger by birth, and a scholar by charity!

With no friend but his sword, and no fortune but his talents, he rushed into the lists where rank, and wealth, and genius had arrayed themselves, and competition fled from him as from the glance of destiny. He knew no motive but interest—he acknowledged no criterion but success—he worshiped no God but ambition, and with an eastern devotion he knelt at the shrine of his idolatry. Subsidiary to this, there was no creed that he did not profess, there was no opinion that he did not promulgate: in the hope of a dynasty, he upheld the crescent; for the sake of a divorce, he bowed before the Cross: the orphan of St. Louis, he became the adopted child of the republic; and with a paricidal ingratitude, on the ruins both of the throne and the tribune, *he reared* the throne of his despotism.

A professed Catholic, he imprisoned the Pope; a pretended patriot, he impoverished the country; and in the name of Brutus,* he grasped without remorse, and wore without shame, the diadem of the Cæsars!

Through this pantomime of his policy, fortune played the clown to his caprices. At his touch, crowns crumbled, beggars reigned, systems vanished, the wildest theories took the colour of his whim, and all that was venerable, and all that was novel, changed places with the rapidity of a drama. Even apparent defeat assumed the appearance of victory—his flight from Egypt confirmed his destiny—ruin itself only elevated him to empire.

But if his fortune was great, his genius was transcendant; decision flashed upon his counsels; and it was the same to decide and to perform. To inferior intellects, his combinations appeared perfectly impossible, his plans perfectly impracticable; but, in his hands, simplicity marked their developement, and success vindicated their adoption.

His person partook the character of his mind—if the one never yielded in the cabinet, the other never bent in the field.

Nature had no obstacles that he did not surmount—space no opposition that he did not spurn; and whether amid Alpine rocks, Arabian sands, or polar snows, he seemed proof against peril, and empowered with ubiquity! The whole continent of Europe trembled at beholding the audacity of his designs, and the miracle of their execution. Scepticism bowed to the prodigies of his performance; romance assumed the air of history; nor was there aught too incredible for belief, or too fanciful for expectation, when the world saw a subaltern of Corsica waving his imperial flag over her most ancient capitals. All the visions of antiquity became common places in his contemplation; kings were his people—nations were his outposts; and he disposed of courts, and crowns, and camps, and churches, and cabinets, as if they were the titular dignitaries of the chess-board!

Amid all these changes he stood immutable as adamant. It mattered little whether in the field or the drawing room—with the mob or the levee—wearing the jacobin bonnet or the iron crown—banishing a Braganza, or espousing a Hapsburgh—dictating peace on a raft to the czar of Russia, or contemplating

* In his hypocritical cant after Liberty, in the commencement of the Revolution, he assumed the name of Brutus——Proh Pudor!

defeat at the gallows of Leipsic—he was still the same military despot!

Cradled in the camp, he was to the last hour the darling of the army; and whether in the camp or the cabinet, he never forsook a friend or forgot a favour. Of all his soldiers, not one abandoned him, till affection was useless; and their first stipulation was for the safety of their favourite.

They knew well that if he was lavish of them, he was prodigal of himself; and that if he exposed them to peril, he repaid them with plunder. For the soldier, he subsidized every people; to the people he made even pride pay tribute. The victorious veteran glittered with his gains; and the capital, gorgeous with the spoils of art, became the miniature metropolis of the universe. In this wonderful combination, his affectation of literature must not be omitted. The jailor of the press, he affected the patronage of letters—the proscriber of books, he encouraged philosophy—the persecutor of authors, and the murderer of printers, he yet pretended to the protection of learning!—the assassin of Palm, the silencer of De Stael, and the denouncer of Kotzebue, he was the friend of David, the benefactor of De Lille, and sent his academic prize to the philosopher of England.*

Such a medley of contradictions, and at the same time such an individual consistency, were never united in the same character. A Royalist—A Republican and an Emperor—A Mahometan—A Catholic and a patron of the Synagogue—A Subaltern and a Sovereign—A Traitor and a Tyrant—A Christian and an Infidel—he was, through all his vicissitudes, the same stern, impatient, inflexible original—the same mysterious incomprehensible self—the man without a model, and without a shadow.

His fall, like his life, baffled all speculation. In short, his whole history was like a dream to the world, and no man can tell how or why he was awakened from the reverie.

Such is a faint and feeble picture of NAPOLEON BUONAPARTE, the first, (and it is to be hoped the last,) Emperor of the French.

That he has done much evil there is little doubt; that he has been the origin of much good, there is just as little. Through his means, intentional or not, Spain, Portugal, and France have arisen

* Sir Humphrey Davy was transmitted the first prize of the Academy of Sciences

to the blessings of a free constitution; Superstition has found her grave in the ruins of the inquisition;* and the feudal system, with its whole train of tyrannic satellites, has fled for ever. Kings may learn from him that their safest study, as well as their noblest, is the interest of the people; the people are taught by him that there is no despotism so stupendous against which they have not a resource; and to those who would rise upon the ruins of both, he is a living lesson, that if ambition can raise them from the lowest station, it can also prostrate them from the highest.

* What melancholy reflections does not this sentence awaken! But three years have elapsed since it was written, and in that short space all the good effected by Napoleon has been erased by the Legitimates, and the most questionable parts of his character badly imitated!—His successors want nothing but his genius.

SPEECH OF MR. PHILLIPS

IN THE CASE OF

BROWNE v. BLAKE:

FOR CRIM. CON.

DELIVERED IN DUBLIN ON THE 9th JULY, 1817

My Lord and Gentlemen,

I AM instructed by the plaintiff to lay his case before you, and little do I wonder at the great interest which it seems to have excited. It is one of those cases which come home to the "business and the bosoms" of mankind—it is not confined to the individuals concerned—it visits every circle, from the highest to the lowest—it alarms the very heart of the community, and commands the whole social family to the spot where human nature, prostrated at the bar of public justice, calls aloud for pity and protection! On my first addressing a jury upon a subject of this nature, I took the high ground to which I deemed myself entitled—I stood upon the purity of the national character—I relied upon that chastity which centuries had made proverbial, and almost drowned the cry of individual suffering in the violated reputation of the country. Humbled and abashed, I must resign the topic—indignation at the novelty of the offence has given way to horror at the frequency of its repetition—it is now becoming almost fashionable amongst us; we are importing the follies, and naturalizing the vices of the continent; scarcely a term passes in these courts, during which some unabashed adulterer or seducer does not announce himself, improving on the odiousness of his offence by the profligacy of his justification, and, as it were, struggling to record by crimes, the desolating progress of our barbarous civilization. Gentlemen, if this be suffered to continue, what home shall be safe, what hearth shall be sacred, what parent can, for a moment, calculate on the possession of his child, what child shall be secure against the or-

phanage that springs from prostitution; what solitary right, whether of life or of liberty, or of property in the land, shall survive amongst us, if that hallowed couch which modesty has veiled, and love endeared, and religion consecrated, is to be invaded by a vulgar and promiscuous libertinism! A time there was when that couch was inviolable in Ireland—when conjugal infidelity was deemed but an invention—when marriage was considered as a sacrament of the heart, and faith and affection sent a mingled flame together from the altar; are such times to dwindle into a legend of tradition? are the dearest rights of man, and the holiest ordinances of God, no more to be respected? Is the marriage vow to become but the prelude to perjury and prostitution? Shall our enjoyments debase themselves into an adulterous participation, and our children propagate an incestuous community? Hear the case which I am fated to unfold, and then tell me whether a single virtue is yet to linger amongst us with impunity: whether honour, friendship or hospitality, are to be sacred: whether that endearing confidence by which the bitterness of this life is sweetened is to become the instrument of a perfidy beyond conception; and whether the protection of the roof, the fraternity of the board, the obligations of the altar, and the devotion of the heart, are to be so many panders to the hellish abominations they should have purified.—Hear the case which must go forth to the world, but which I trust in God your verdict will accompany, to tell that world, that if there was vice enough amongst us to commit the crime, there is virtue enough to brand it with an indignant punishment.

Of the plaintiff, Mr. Browne, it is quite impossible but you must have heard much—his misfortune has given him sad celebrity; and it does seem a peculiar incident to such misfortune, that the loss of happiness is almost invariably succeeded by the deprivation of character. As the less guilty murderer will hide the corse that may lead to his detection, so does the adulterer, by obscuring the reputation of his victim, seek to diminish the moral responsibility he had incurred. Mr. Browne undoubtedly forms no exception to this system—betrayed by his friend, and abandoned by his wife, his too generous confidence, his too tender love has been slanderously perverted into the sources of his calamity. Because he could not tyrannize over her whom he adored, he was careless—because he could not suspect him in whom he

trusted, he was careless; and crime in the infatuation of its cunning found its justification even on the virtues of its victim! I am not deterred by the prejudice thus cruelly excited—I appeal from the gossiping credulity of scandal to the grave decisions of fathers and of husbands; and I implore of you, as you value the blessings of your home, not to countenance the calumny which solicits a precedent to excuse their spoliation. At the close of the year 1809, the death of my client's father gave him the inheritance of an ample fortune. Of all the joys his prosperity created, there was none but yielded to the ecstacy of sharing it with her he loved, the daughter of his father's ancient friend, the respectable proprietor of Oran Castle. She was then in the very spring of life, and never did the sun of heaven unfold a lovelier blossom —her look was beauty and her breath was fragrance—the eye that saw her caught a lustre from the vision; and all the virtues seemed to linger round her, like so many spotless spirits enamoured of her loveliness.

"Yes, she was good as she was fair,
None, none on earth above her;
As pure in thought as angels are;
To see her, was to love her."

What years of tongueless transport might not her happy husband have anticipated! What one addition could her beauties gain to render them all perfect! In the connubial rapture there was only one, and she was blessed with it. A lovely family of infant children gave her the consecrated name of mother, and with it all that heaven can give of interest to this world's worthlessness. Can the mind imagine a more delightful vision than that of such a mother, thus young, thus lovely, thus beloved, blessing a husband's heart, basking in a world's smile; and while she breathed into her little ones, the moral light, showing them that, robed in all the light of beauty, it was still possible for their virtues to cast it into the shade. Year after year of happiness rolled on, and every year but added to their love, a pledge to make it happier than the former. Without ambition but her husband's love, without one object but her children's happiness, this lovely woman, circled in her orbit, all bright, all beauteous in the prosperous hour, and if that hour e'er darkened, only beaming the brighter and the lovelier. What human hand could mar so *pure a picture*?—What punishment could adequately visit its *violation*?

"Oh happy love, where love like this is found!
Oh, heartfelt rapture! bliss beyond compare!"

It was indeed the summer of their lives, and with it came the swarm of summer friends, that revel in the sunshine of the hour, and vanish with its splendour.—High and honoured in that crowd —most gay, most cherished, most professing, stood the defendant, Mr. Blake. He was the plaintiff's dearest, fondest friend, to every pleasure called, in every case consulted, his day's companion, and his evening guest, his constant, trusted, bosom confident, and, under guise of all, oh human nature! he was his fellest, deadliest, final enemy! Here, on the authority of this brief, do I arraign him, of having wound himself into my client's intimacy—of having encouraged that intimacy into friendship, of having counterfeited a sympathy in his joys and in his sorrows; and when he seemed too pure even for scepticism itself to doubt him, of having, under the very sanctity of his roof, perpetrated an adultery the most unprecedented and perfidious! If this be true, can the world's wealth defray the penalty of such turpitude? Mr. Browne, Gentlemen, was ignorant of every agricultural pursuit, and, unfortunately adopting the advice of his father-in-law, he cultivated the amusements of the Curragh. I say unfortunately, for his own affairs, and by no means in reference to the pursuit itself. It is not for me to libel an occupation which the highest, and noblest, and most illustrious throughout the empire, countenance by their adoption, which fashion and virtue grace by its attendance, and in which, peers and legislators and princes are not ashamed to appear conspicuous. But if the morality that countenances it be doubtful, by what epithet shall we designate that which would make it an apology for the most profligate of offences? Even if Mr. Browne's pursuits were ever so erroneous, was it for his bosom friend to take advantage of them to ruin him? On this subject, it is sufficient for me to remark, that under circumstances of prosperity or vicissitudes, was their connubial happiness ever even remotely clouded? In fact, the plaintiff disregarded even the amusements that deprived him of her society. He took a house for her in the vicinity of Kildare, furnished it with all that luxury could require, and afforded her the greatest of all luxuries, that of enjoying and enhancing his most prodigal affection. From the hour of their marriage, up to the unfortunate discovery, *they lived* on terms of the utmost tenderness; *not a word, except one of love*; not an act, except of mutual

endearment, passed between them. Now, gentlemen, if this be proved to you, here I take my stand, and I say, under no earthly circumstances. can a justification of the adulterer be adduced. No matter with what delinquent sophistry he may blaspheme through its palliation, God ordained, nature cemented, happiness consecrated that celestial union, and it is complicated treason against God, and man, and society, to intend its violation. The social compact, through every fibre trembles at its consequences; not only policy, but law, not only law, but nature, not only nature, but religion deprecate and denounce it,—parent and offspring,—youth and age,—the dead from the tombs,—the child from its cradle, creatures scarce alive, and creatures still unborn; the grandsire shivering on the verge of death; the infant quickening in the mother's womb; all with one assent re-echo God, and execrate adultery! I say, then, where it is once proved that husband and wife live together in a state of happiness, no contingency on which the sun can shine, can warrant any man in attempting their separation. Did they do so? This is imperatively your first consideration. I only hope that all the hearts religion has joined together, may have enjoyed the happiness they did. Their married state was one continued honey moon; and if ever cloud arose to dim it, before love's sigh it fled, and left its orb the brighter. Prosperous and wealthy, fortune had no charms for Mr. Browne, but as it blessed the object of his affections. She made success delightful; she gave his wealth its value. The most splendid equipages—the most costly luxuries, the richest retinue—all that vanity could invent to dazzle —all that affection could devise to gratify, were her's, and thought too vile for her enjoyment. Great as his fortune was, his love outshone it, and it seemed as if fortune was jealous of the performance. Proverbially capricious, she withdrew her smile, and left him shorn almost of every thing except his love, and the fidelity that crowned it.

The hour of adversity is woman's hour—in the full blaze of fortune's rich meridian, her modest beam retires from vulgar notice; but when the clouds of wo collect around us, and shades and darkness dim the wanderer's path, that chaste and lovely light shines forth to cheer him, an emblem and an emanation *of the heavens*!—It was then her love, her value, and her power *was visible. No, it is* not for the cheerfulness with which she

bore the change I prize her—it is not that without a sigh she surrendered all the baubles of prosperity—but that she pillowed her poor husband's heart, welcomed adversity to make him happy, held up her little children as the wealth that no adversity could take away; and when she found his spirit broken and his soul dejected, with a more than masculine understanding, retrieved, in some degree, his desperate fortunes, and saved the little wreck that solaced their retirement. What was such a woman worth, I ask you? If you can stoop to estimate by dross the worth of such a creature, give me even a notary's calculation, and tell me then what was she worth to him to whom she had consecrated the bloom of her youth, the charm of her innocence, the splendour of her beauty, the wealth of her tenderness, the power of her genius, the treasure of her fidelity? She, the mother of his children, the pulse of his heart, the joy of his prosperity, the solace of his misfortunes—what was she worth to him? Fallen as she is, you may still estimate her; you may see her value, even in her ruin. The gem is sullied, the diamond is shivered; but even in its dust you may see the magnificence of its material. After this, they retired to Rockville, their seat in the county of Galway, where they resided in the most domestic manner, on the remnant of their once splendid establishment. The butterflies, that in their noon tide fluttered round them, vanished at the first breath of their adversity; but one early friend still remained faithful and affectionate, and that was the defendant. Mr. Blake is a young gentleman of about eight and twenty; of splendid fortune, polished in his manners, interesting in his appearance, with many qualities to attach a friend, and every quality to fascinate a female. Most willingly do I pay the tribute which nature claims for him; most bitterly do I lament that he has been so ungrateful to so prodigal a benefactress. The more Mr. Browne's fortunes accumulated, the more disinterestedly attached did Mr. Blake appear to him. He shared with him his purse, he assisted him with his counsel; in an affair of honour he placed his life and character in his hands—he introduced his innocent sister, just arrived from an English nunnery, into the family of his friend—he encouraged every reciprocity of intercourse between the females; and, to crown all, that no possible suspicion might attach to him, he seldom travelled *without his domestic chaplain!* Now, if it shall appear that

all this was only a screen for his adultery—that he took advantage of his friend's misfortune to seduce the wife of his bosom—that he affected confidence only to betray it—that he perfected the wretchedness he pretended to console, and that in the midst of poverty he has left his victim, friendless, hopeless, companionless; a husband without a wife, and a father without a child—Gracious God! is it not enough to turn Mercy herself into an executioner! You convict for murder—here is the hand that murdered innocence! You convict for treason—here is the vilest disloyalty to friendship! You convict for robbery—here is one who plundered virtue of her dearest pearl, and dissolved it—even in the bowl that hospitality held out to him! They pretend that he is innocent! Oh effrontery the most unblushing! Oh vilest insult, added to the deadliest injury! Oh base, detestable, and damnable hypocrisy! Of the final testimony it is true enough their cunning has deprived us; but under Providence, I shall pour upon this baseness such a flood of light, that I will defy, not the most honourable man merely, but the most charitable sceptic, to touch the Holy Evangelists, and say, by their sanctity, it has not been committed. Attend upon me, now, Gentlemen, step by step, and with me rejoice, that, no matter how cautious may be the conspiracies of guilt, there is a Power above to confound and to discover them.

On the 27th of last January, Mary Hines, one of the domestics, received directions from Mrs. Browne, to have breakfast ready very early on the ensuing morning, as the defendant, then on a visit at the house, expressed an inclination to go out to hunt. She was accordingly brushing down the stairs at a very early hour, when she observed the handle of the door stir, and fearing the noise had disturbed her, she ran hastily down stairs to avoid her displeasure. She remained below about three quarters of an hour, when her master's bell ringing violently she hastened to answer it. He asked her in some alarm where her mistress was? naturally enough astonished at such a question at such an hour, she said she knew not, but would go down and see whether or not she was in the parlour. Mr. Browne, however, had good reason to be alarmed, for she was so extremely indisposed going to bed at night, that an express stood actually prepared to bring medical aid from Galway, unless she appeared better. An unusual depression both of mind and body preyed upon Mrs. Browne on the preceding evening. She frequently burst into tears, threw

her arms around her husband's neck, saying that she was sure another month would separate her for ever from him and her dear children. It was no accidental omen. Too surely the warning of Providence was upon her. When the maid was going down, Mr. Blake appeared at his door totally undressed, and in a tone of much confusion desired that his servant should be sent up to him. She went down: as she was about to return from her ineffectual search, she heard her master's voice in the most violent indignation, and almost immediately after Mrs. Browne rushed past her into the parlour, and hastily seizing her writing desk, desired her instantly to quit the apartment. Gentlemen, I request you will bear every syllable of this scene in your recollection, but most particularly the anxiety about the writing desk. You will soon find that there was a cogent reason for it. Little was the wonder that Mr. Browne's tone should be that of violence and indignation. He had discovered his wife and friend totally undressed, just as they had escaped from the guilty bed-side where they stood in all the shame and horror of their situation! He shouted for her brother, and that miserable brother had the agony of witnessing his guilty sister in the bed-room of her paramour, both almost literally in a state of nudity. Blake! Blake! exclaimed the heart-struck husband, is this the return you have made for my hospitality? Oh, heavens! what a reproach was there! It was not merely, you have dishonoured my bed—it was not merely, you have sacrificed my happiness—it was not merely, you have widowed me in my youth, and left me the father of an orphan family—it was not merely, you have violated a compact to which all the world swore a tacit veneration—but, you—you have done it, my friend, my guest, under the very roof barbarians reverence; where you enjoyed my table, where you pledged my happiness; where you saw her in all the loveliness of her virtue, and at the very hour when our little helpless children were wrapt in that repose of which you have for ever robbed their miserable parents! I do confess when I paused here in the perusal of these instructions, the very life-blood froze within my veins. What! said I, must I not only reveal this guilt! must I not only expose his perfidy! must I not only brand the infidelity of a wife and a mother, but must I, amidst the agonies of outraged nature, make the brother the proof of the sister's prostitution! *Thank God*, Gentlemen, I may not be

obliged to torture you and him and myself, by such instrumentality. I think the proof is full without it, though it must add another pang to the soul of the poor plaintiff, because it must render it almost impossible that his little infants are not the brood of this adulterous depravity. It will be distinctly proved to you by Honoria Brennan, another of the servants, that one night, so far back as the May previous to the last-mentioned occurrence, when she was in the act of arranging the beds, she saw Mr. Blake come up stairs, look cautiously about him, go to Mrs. Browne's bed-room door, and tap at it; that immediately after Mrs. Browne went, with no other covering but her shift, to Mr. Blake's bed-chamber, where the guilty parties locked themselves up together. Terrified and astonished, the maid retired to the servants' apartments, and in about a quarter of an hour after she saw Mrs. Browne in the same habiliments return from the bed-room of Blake into her husband's. Gentlemen, it was by one of those accidents which so often accompany and occasion the developement of guilt, that we have arrived at this evidence. It was very natural that she did not wish to reveal it; very natural that she did not wish either to expose her mistress, or afflict her unconscious master with the recital; very natural that she did not desire to be the instrument of so frightful a discovery. However, when she found that concealment was out of the question; that this action was actually in progress, and that the guilty delinquent was publicly triumphing in the absence of proof, and through an herd of slanderous dependants, cruelly vilifying the character of his victim; she sent a friend to Mr. Browne, and in his presence, and that of two others, solemnly discovered her melancholy information. Gentlemen, I do entreat of you to examine this woman, though she is an uneducated peasant, with all severity; because, if she speaks the truth, I think you will agree with me, that so horrible a complication of iniquity never disgraced the annals of a court of justice. He had just risen from the table of his friend—he left his own brother and that friend behind him, and even from the very board of his hospitality he proceeded to the defilement of his bed! Of mere adultery I had heard before. It was bad enough—a breach of all law, religion and morality—but, what shall I call this?—*that seduced* innocence—insulted misfortune—betrayed friendship—*violated* hospitality—tore up the foundations of human na-

ture, and harried its fragments at the violated altar, as if to bury religion beneath the ruins of society! Oh, it is guilt might put a Demon to the blush!

Does our proof rest here! No; though the mind must be sceptical that after this could doubt. A guilty correspondence was carried on between the parties, and though its contents were destroyed by Mrs. Browne on the morning of the discovery, still we shall authenticate the fact beyond suspicion. You shall hear it from the very messenger they entrusted—you shall hear from him too, that the wife and the adulterer both bound him to the utmost secrecy, at once establishing their own collusion and their victim's ignorance, proving by the very anxiety for concealment, the impossibility of connivance; so true it is that the conviction of guilt will often proceed even from the stratagem for its security. Does our proof rest here? No; you shall have it from a gentleman of unimpeachable veracity, that the defendant himself confessed the discovery in his bed-room—"I will save him," said he, "the trouble of proving it; she was in her shift, and I was in my shirt. I know very well a jury will award damages against me; ask Browne will he agree to compromise it; he owes me some money, and I will give him the overplus in horses!" Can you imagine any thing more abominable. He seduced from his friend the idol of his soul, and the mother of his children, and when he was writhing under the recent wound. he deliberately offers him brutes in compensation! I will not depreciate this cruelty by any comment; yet the very brute he would barter for that unnatural mother, would have lost its life rather than desert its offspring. Now, Gentlemen, what rational mind but must spurn the asseveration of innocence after this? Why the anxiety about the writing desk? Why a clandestine correspondence with her husband's friend? Why remain, at two different periods, for a quarter of an hour together, in a gentleman's bed-chamber, with no other habiliment, at one time, than her bed-dress, at another than her shift. Is this customary with the married females of this country? Is this to be a precedent for our wives and daughters, sanctioned too by you, their parents and their husbands? Why did he confess that a verdict for damages must go against him, and make the offer of that unfeeling compromise?—Was it because he was innocent? The very offer *was a judgment by default*, a distinct, undeniable corrobo-

ration of his guilt. Was it that the female character should not suffer? Could there be a more trumpet-tongued proclamation of her criminality? Are our witnesses suborned? Let his army of Counsel sift and torture them. Can they prove it? Oh yes, if it be provable. Let them produce her brother—in our hands, a damning proof to be sure; but then, frightful, afflicting, unnatural—in theirs, the most consolatory and delightful, the vindication of calumniated innocence, and that innocence the innocence of a sister. Such is the leading outline of our evidence—evidence which you will only wonder is so convincing in a case whose very nature presupposes the most cautious secrecy. The law, indeed, Gentlemen, duly estimating the difficulty of final proof in this species of action, has recognized the validity of inferential evidence, but on that subject his Lordship must direct you.

Do they rely, then, on the ground of innocency? If they do, I submit to you, on the authority of the law, that inferential evidence is quite sufficient; and on the authority of reason, that in this particular case, the inferential testimony amounts to demonstration. Amongst the innumerable calumnies afloat, it has been hinted to me indeed, that they may mean to rely upon what they denominate the indiscretion of the husband.—The moment they have the hardihood to resort to that, they, of course, abandon all denial of delinquency, and even were it fully proved, it is then worth your most serious consideration, whether you will tolerate such a defence as that. It is in my mind beyond all endurance, that any man should dare to come into a Court of Justice, and on the shadowy pretence of what he may term carelessness, ground the most substantial and irreparable injury. Against the unmanly principle of conjugal severity, in the name of civilized society, I solemnly protest. It is not fitted for the meridian, and I hope will never amalgamate itself with the manners of this country.—It is the most ungenerous and insulting suspicion, reduced into the most unmanly and despotic practice.

> "Let barbarous nations whose inhuman love
> Is wild desire, fierce as the suns they feel;
> Let Eastern tyrants, from the light of heaven
> Seclude their bosom slaves, meanly possessed
> Of a mere lifeless violated form—
> While those whom love cements in holy faith
> And equal transport, free as nature live,
> *Disdaining* fear."

But once establish the principle of this moral and domestic

censorship, and then tell me where is it to begin? Where is it to end? Who shall bound? Who shall preface it? By what hitherto undiscoverable standard, shall we regulate the shades between solemnity and levity? Will you permit this impudent espionage upon your households; upon the hallowed privacy of your domestic hours; and for what purpose? Why, that the seducer and the adulterer may calculate the security of his cold-blooded libertinism!—that he may steal like an assassin upon your hours of relaxation, and convert perhaps your confidence into the instrument of your ruin! If this be once permitted as a ground of justification, we may bid farewell at once to all the delightful intercourse of social life. Spurning as I do at this odious system of organized distrust, suppose the admission made, that my client was careless, indiscreet, culpable, if they will, in his domestic regulations, is it therefore to be endured, that every abandoned burglar should seduce his wife, or violate his daughter? Is it to be endured, that Mr. Blake, of all men, should rely on such an infamous and convenient extenuation? He—his friend, his guest, his confidant, he who introduced a spotless sister to this attainted intimacy; shall he say, I associated with you hourly, I affected your familiarity for many years, I accompanied my domesticated minister of religion to your family; I almost naturalized the nearest female relative I had on earth, unsullied and unmarried as she was within your household: but—you fool—it was only to turn it into a brothel! Merciful God, will you endure him when he tells you thus, that he is on the watch to prowl upon the weakness of humanity, and audaciously solicits your charter for such libertinism?

I have heard it asserted also, that they mean to arraign the husband as a conspirator, because in the hour of confidence and misfortune he accepted a proffered pecuniary assistance from the man he thought his friend. It is true he did do so; but so, I will say, criminally careful was he of his interests that he gave him his bond, and made him enter up judgment on that bond, and made him issue an execution on that judgment, ready to be levied in a day, that, in the wreck of all, the friend of his bosom should be at least indemnified. It was my impression, indeed, that under a lease of this nature, amongst honourable men, so far from any unwarrantable privilege created, there was rather a peculiar delicacy *incumbent on the donor*. I should have thought so still

but for a frightful expression of one of the Counsel on the motion, by which they endeavoured not to trust a Dublin Jury with this issue.—What, exclaimed they, in all the pride of their execrable instructions, "poor plaintiff and rich defendant! Is there nothing in that?" No, if my client's shape does not belie his species, there is nothing in that. I braved the assertion as a calumny on human nature—I call on you, if such an allegation be repeated, to visit it with vindictive and overwhelming damages? I would appeal, not to this civilized assembly, but to a horde of savages, whether it is possible for the most inhuman monster thus to sacrifice to infamy, his character—his wife—his home—his children! In the name of possibility, I deny it; in the name of humanity, I denounce it; in the name of our common country, and our common nature, I implore of the learned Counsel not to promulgate such a slander upon both—but I need not do so; if the seal of advocacy should induce them to the attempt, memory would array their unhappy homes before them—their little children would lisp its contradiction—their love—their hearts—their instinctive feelings as fathers and as husbands, would rebel within them, and wither up the horrid blasphemy upon their lips.

They will find it difficult to palliate such turpitude—I am sure I find it difficult to aggravate.—It is in itself a hyperbole of wickedness. Honour, innocence, religion, friendship—all that is sanctified or lovely, or endearing in creation.—Even that hallowed, social, shall I not say indigenous virtue—that blessed hospitality—which foreign envy could not deny, or foreign robbery despoil—which, when all else had perished, cast a bloom on our desolation, flinging its rich foliage over the national ruin, as if to hide the monument, while it gave a shelter to the mourner—even that withered away before that pestilence! But what do I say! was virtue merely the victim of this adulterer? Worse, worse—it was his instrument—even on the broken tablet of the decalogue did he whet the dagger for his social assassination.—What will you say, when I inform you, that a few months before, he went deliberately to the baptismal font with the waters of life to regenerate the infant that, too well could he avouch it, *had* been born in sin, and he promised to teach it Christianity! *And he promised* to guard it against "the flesh!" And, lest *infinite mercy* should overlook the sins of its adulterous father

seeking to make God his pander, he tried to damn it even with the Sacrament!—See then the horrible atrocity of this case as it touches the defendant—but how can you count its miseries as attaching to the plaintiff! He has suffered a pang the most agonizing to human sensibility—it has been inflicted by his friend, and inflicted beneath his roof—it commences at a period which casts a doubt on the legitimacy of his children, and, to crown all, "upon him a son is born" even since the separation, upon whom every shilling of his estates has entailed by settlement! What compensation can reprise so unparalleled a sufferer? What solitary consolation is there in reserve for him? Is it love? Alas, there was one whom he adored with all the heart's idolatry, and she deserted him. Is it friendship? There was one of all the world whom he trusted, and that one betrayed him. Is it society? The smile of others' happiness appears but the epitaph of his own. Is it solitude? Can he be alone while memory striking on the sepulchre of his heart, calls into existence the spectres of the past. Shall he fly for refuge to his "sacred home?" Every object there is eloquent of his ruin! Shall he seek a mournful solace in his children? Oh, he has no children—there is the little favourite that she nursed, and there—there—even on its guileless features—there is the horrid smile of the adulterer!

Oh Gentlemen, am I this day only the Counsel of my client! no—no—I am the advocate of humanity—of yourselves—your homes—your wives—your families—your little children; I am glad that this case exhibits such atrocity; unmarked as it is by any mitigatory feature, it may stop the frightful advance of this calamity; it will be met now, and marked with vengeance; if it be not, farewell to the virtues of your country; farewell to all confidence between man and man; farewell to that unsuspicious and reciprocal tenderness, without which marriage is but a consecrated curse; if oaths are to be violated; laws disregarded; friendship betrayed; humanity trampled; national and individual honour stained; and if a jury of fathers, and of husbands will give such miscreancy a passport to their homes, and wives, and daughters; farewell to all that yet remains of Ireland! But I will not cast such a doubt upon the character of my country Against the sneer of the foe, and the scepticism of the foreigner, I will still point to *the domestic virtues*, that no perfidy could *barter, and no bribery can purchase*, that with a Roman usage,

at once embellish and consecrate households, giving to the society of the hearth all the purity of the altar; that lingering alike in the palace and the cottage, are still to be found scattered over this land; the relic of what she was; the source perhaps of what she may be; the lone, the stately, and magnificent memorials, that rearing their majesty amid surrounding ruins serve at once as the land-marks of the departed glory, and the models by which the future may be erected.

Preserve those virtues with a vestal fidelity; mark this day, by your verdict, your horror at their profanation, and believe me, when the hand which records that verdict shall be dust, and the tongue that asks it, traceless in the grave, many a happy home will bless its consequences, and many a mother teach her little child to hate the impious treason of adultery.

SPEECH OF MR. PHILLIPS

AT THE SLIGO COUNTY MEETING.

On Monday the 10th April, there was a large and respectable meeting in the court house, of the gentlemen, clergy, freeholders, and other inhabitants of the county of Sligo, for the purpose of taking into consideration an address of condolence to the king on the death of his royal father, and of congratulation to his majesty on his accession to the throne. Wm. Parke Esq. high sheriff, in the chair.

Owen Wynne Esq. moved an address.

Major O'Hara seconded the motion,

Charles Phillips Esq. then rose and spoke to the following effect:

I am happy, sir, in having an opportunity of giving my concurrence both in the sentiment and principle of the proposed address. I think it should meet with the most perfect unanimity. The departed monarch deserves, and justly, every tribute which posterity can pay him. He was one of the most popular that ever swayed the sceptre of these countries. He never forgot his early declaration that he gloried in the name of Briton, and Britain now reciprocates the sentiment, and glories in the pride of his nativity. He was, indeed, a true-born Englishmen—brave, generous, benevolent and manly—in the exercise of his sway, and the exercise of his virtues so perfectly consistent that it is difficult to say whether as a man or sovereign he is most to be regretted. He commenced for the Catholic a conciliatory system—he preserved for the Protestant the inviolability of the constitution—he gave to both a great example in the toleration of his principles and the integrity of his practice. The historian will dwell with delight upon those topics. He will have little to censure and much to commend. He will speak of arts, manufactures, *literature encouraged*—he will linger long among those *private virtues which* wreathed themselves around his public

station—which identified his domestic with his magisterial character, and made the father of his family, the father of his people. He will not fail to remark how ample, and, at the same time, how discriminating was his patronage, and he will truly say, that if the pencil of West, directed to the sacred volume by his bounty—if the old age of Johnson, cheered and consoled by his royal liberality, were to stand alone, they would undeniably attest the purity of his taste and the piety of his morals. Attributes, such as these, sir, come home to the bosom of every man amongst us—they descend from the throne, they mingle with the fire side, they command more than majesty often can, not only the admiration but the sympathy of mankind. Nor may we forget, independent of his most virtuous example in private life, the vast public benefits, which, as a king, his reign conferred upon the country—the *liberty of the press*, guaranteed, as far as reason can require it, and where restrained, only so restrained as to prevent its running into licentiousness—the trial by jury fully defined and firmly established—the independence of the bench voluntarily conceded, which deprived the executive of a powerful and possible instrument, and vested the rights and property and privilege of the people in the integrity of a now unassailable tribunal. These are acts which we should register in our hearts; they should canonize the memory of the monarch; they made his realm the land-mark of European liberty, they made its constitution the model for European imitation. Let us not either in our estimate of his character forget the complexion of the times in which he lived; times of portent and prodigy, enough to perplex the council of the wise, and daunt the valour of the warrior;—in such extremities, experience becomes an infant, and calculation a contingency. From the terrific chaos of the French revolution, a comet rose and blazed athwart our hemisphere, too splendid not to allure, too ominous not to intimidate, too rapid and too eccent[illegible] human speculation. The whole continent became [illegible]der; kings and statesmen and sages fell down [illegible] and the political orbs, which had hitherto circled [illegible]nce, hurried from our system into the train of [illegible]ere was no order in politics; no consistency [illegible]astness in religion.

[illegible] prevailed, and impious men bore sway.

Upon the tottering throne the hydra of democracy sat grinning; upon the ruined altar a wretched prostitute received devotion, and waved in mockery the burning cross over the prostrate murmurs of the new philosophy! All Europe appeared spell-bound; nor like a vulgar spell did it perish in the waters. It crossed the channel. There were not wanting in England abundance of anarchists to denounce the king, and of infidels to abjure the Deity; turbulent demagogues who made the abused name of freedom the pretence for their own factious selfishness; atheists looking to be worshipped, republicans looking to be crowned; the nobles of the land were proscribed by anticipation, and their property partitioned by the disinterested patriotism of these Agrarian speculators. What do you think it was, during that awful crisis, which saved England from the hellish Saturnalia which inverted France? Was it the prophetic inspiration of Mr Burke? The uncertain adhesion of a standing army? The precarious principles of our navy at the Nore? Or the transient resources of a paper currency? Sir, I believe in my soul this empire owed its salvation during that storm to the personal character of the departed sovereign. When universal warfare was fulminated against monarchy, England naturally turned to its representative at home: and what did she find him? Frugal, moral, humane, religious, benevolent, domestic; a good father, a good husband, a good man, rendered the crown she gave him still more loyal, and not only preserving but purifying the trusts she had confided. She looked to his court: and did her morality blush at the splendid debauchery of a Versailles? Did her faith revolt at the gloomy fanaticism of an Escurial? Far from it. She saw the dignity which testified her sway tempered by the purity which characterised her worship; she saw her diadem glowing with the gems of empire, but those gems were illumined by a ray from the altar; she saw that aloft on his triumphal chariot her monarch needed not the memento of the republican; he never for a moment forgot that "he was a man." Sir, it would have been a lot above the condition of humanity, if his measures had not sometimes been impeached by party. But in all the conflicts of public opinion as to their policy, who ever heard an aspersion cast upon his motives? It is very true, had he followed other councils, events might have been different, but it is also well worth while to notice, would our situation have

been improved? Would Great Britain revolutionised, have given her people purer morals, more upright tribunals, more impartial justice, or more "perfect freedom" than they now participate? Did the murder of her prelates, her nobility and her king, followed by twenty years of military sway, procure for France, more popular privileges than those of which we have been in undisturbed possession? Was the chance of some problematical improvement worth the contingencies? Should we surrrender a present practical reality for the fantastic scheme of some Utopian theorist? Ought we to confound a creation so regular and so lovely, for the visionary paradise that chaos might reveal to us? The experiment has been tried, and what has been the consequence? Look to the continent at this moment. Its unsettled governments! its perturbed spirit! its pestilential doctrines! Go to the tomb of Kotzebue; knock at the cemetry of the Bourbons; providentially I have not to refer to your own murdered cabinet: you will find there how much easier it is to desolate than to create; how possible it is to ruin; how almost impracticable to restore.

Even in a neighbouring county in your own island, look at the enormous temptation which has been offered in vain to its impoverished peasantry to induce them—to what? Why merely to surrender a murderous assassin well known to have been one of a numerous association. Do you think such principles are natural to our people? Do you not think they are the result of system? Which do you believe—that such a sickening coincidence both at home and abroad is miraculous or premeditated? Sir, there is but one solution. You may depend upon it, the gulf is not yet closed whence the dreadful doctrines of treason, and assassination, and infidelity have issued. Men's minds are still feverish and delirious, and whether they nickname the fever illumination in Germany, liberality in France, radicalism in England, or by some more vulgar and unmeaning epithet at home, they are all children of the same parent; all so many common and convulsive indications of the internal vitality of the revolutionary volcano. Sir, I am not now to learn that those opinions are unpalatable to certain ultra patriots of the hour. I declared them before, and I now reiterate them still more emphatically, because they have expressed a very imprudent surprise that *such opinions* should proceed from me. Sir, if they mean to

insinuate that I ever approved the practice or professed the principles of their infamous fraternity, they insinuate a base, slanderous, and malignant falsehood. I hold it to be the bounden duty of every honest man who ever pronounced a liberal opinion, to come forward and declare his abhorrence of such doctrines. What! because I am liberal, must I become rebellious? because I am tolerant, must I renounce my creed? They have mistaken me very much. Though I would approve of any rational, practicable reform; though I would go very far upon the road of liberality, I would not move for either, no, not one single inch, unless loyalty and religion were to bear me company. I know not what they mean by their "Radical Reform," unless they mean to uproot the Throne, the Altar, and the State. I do not believe their chimera of annual parliaments and universal suffrage. I prefer a legislature comprising the wealth, the talent, and the education of the realm, to a radical directory of shoeless cobblers, and shopless apothecaries. I fly for protection to my king, and for consolation to my God, from the lawless, creedless, murderous, blasphemous banditti, who postpone them both to the putrid carcase of an outlawed infidel. Denounce me if you choose. I would sooner die to-morrow beneath the dagger of your hate, than live in the infectious leprosy of your friendship. My fellow-countrymen, it is high time to pause. Our very virtues, by excess, may become vices. Let us aid the aggrieved, but let us not abet the assassin; let us tolerate the sectarian, not countenance the infidel; let us promulgate, if we can, an universal good, without shaking the basis of our social system, or the blessed foundation of our eternal hope. My own sentiments, as to the most unlimited toleration of all sects of Christians, you are not now, for the first time, to be made acquainted with. I know that many good men, and many much abler men, dissent from me; and while I give them full credit on the score of sincerity, I only seek the same concession for myself. I would open the gates of constitutional preferment to all my fellow subjects of every religious creed, wide as I expand to them the affections of my own heart. It is in my mind but fair, that he who protects a state should receive a reciprocity of privileges; that no man should be made familiar with its burthens, and at the same time be told he must remain a stranger to its benefits. This is an humble but conscientious opinion, given freely but not

servilely—seeking to make others free, I will not submit to become a slave myself, or compromise one particle of self-respect. Nay, more, Sir, though I would give, and give voluntarily, every liberal enfranchisement, I would not withdraw one prop—I would not deface even one useless ornament on the porch of the constitution; it has been founded by wisdom, defended by valour, consecrated by years, and cemented by the purest blood of patriotism: at every step beneath its sacred dome, we meet some holy relic, some sublime memorial; the tombs of the heroes, and sages, and martyrs of our history! the graves of the Russels and the Sydneys; the statues of the Hardwicks and the Hales; the sainted relics of departed piety; the table of the laws to which king and people are alike responsible; the eternal altar on whose divine commandments all those laws are founded; sublime, hallowed, invaluable treasures! unimpaired and imperishable be the temple that protects them! In the fullness of my heart I say to it, "*Esto perpetua*," may no political Marius ever rest upon its ruins. Sir, in reference to the congratulatory part of your address, I cannot wish the august personage to whom it refers a more auspicious wish than that he may follow implicitly the footsteps of his father.—These ways are "ways of pleasantness," these paths are "paths of peace." I hope his reign may be as happy as his Regency has been victorious, and that in the plenitude of power, he will remember the country forgot not him when that power was very distant. These are not times, however, to be either too exigent or too unreasonable; the atheist meets us in our noon-day walk; the assassin waits not for the night's concealment; all ranks, and sects, and parties should unite; all that is sacred in the eye of every christian, dear to every parent, and valuable to every man, is menaced with annihilation; every cause of difference, whether real or imaginary, should be now suspended, until the national shout of "fear God, honour the king," drowns the warwhoop of impiety and treason: if we are to live, my countrymen, let us live in the security of laws; if we are to die, let us die in the consolations of religion.

SPEECH OF MR. PHILLIPS

DELIVERED

AT THE ANNUAL MEETING OF THE BRITISH AND FOREIGN AUXILIARY BIBLE SOCIETY, LONDON.

ALTHOUGH I have not had the honour either of proposing or seconding any of your Resolutions, still, as a native of that country so pointedly alluded to in your report, I hope I may be indulged in a few observations. The crisis in which we are placed is, I hope, a sufficient apology in itself for any intrusion; but I find such apology is rendered more than unnecessary by the courtesy of this reception. Indeed, my Lord, when we see omens which are every day arising—when we see blasphemy openly avowed—when we see the Scriptures audaciously ridiculed—when, in this Christian Monarchy, the den of the republican and the deist yawns for the unwary in your most public thoroughfares—when marts are ostentatiously opened, where the moral poison may be purchased, whose subtle venom enters the very soul—when infidelity has become an article of commerce, and man's perdition may be cheapened at the stall of every pedlar—no friend of society should continue silent—it is no longer a question of political privilege—of sectarian controversy—of theological discussion;—it is become a question, whether Christianity itself shall stand, or whether we shall let go the firm anchor of our faith, and drift without chart, or helm, or compass, into the shoreless ocean of impiety and blood! I despise as much as any man the whine of bigotry—I will go as far as any man for rational liberty, but I will not depose my God to defy the infidel, or tear in pieces the charter of the State, and grope for a constitution amongst the murky pigeon-holes of every creedless, lawless, infuriated regicide. When I saw, the other day, my Lord, the chief bacchanal of their orgies—the man with whom the *Apostles* were cheats, and the Prophets liars

and Jesus an imposter, on his memorable trial, withering hour after hour with the most horrid blasphemies—surrounded by the votaries of every sect, and the heads of every faith—the Christian Archbishop—the Jewish Rabbi—the men most eminent for their piety and their learning, whom he had purposely collected to hear his infidel ridicule of all they reverenced—when I saw him raise the Holy Bible in one hand, and the Age of reason in the other, as it were confronting the Almighty with a rebel worm, till the pious Judge grew pale, and the patient Jury interposed, and the self-convicted wretch himself, after having raved away all his original impiety, was reduced into a mere machine, for the re-production of the ribald blasphemy of others—I could not help exclaiming, "Infatuated man—if all your impracticable madness could be realized, what would you give us in exchange for our establishment? What would you substitute for that just tribunal—for whom would you displace that independent Judge and that impartial Jury?—Would you really burn the Gospel and erase the statutes, for the dreadful equivalent of the crucifix and the guillotine!" Indeed, if I was asked for a practical panegyric on our Constitution, I would adduce the very trial of that criminal—and if the legal annals of any country upon earth furnished an instance, not merely of such justice, but of such patience, and forbearance, such almost culpable indulgence, I would concede to him the triumph. I hope, too, in what I say, I shall not be considered as forsaking that illustrious example—I hope I am above an insult on any man in his situation—perhaps, had I the power, I would follow the example further than I ought—perhaps I would even humble him into an evidence of the very spirit he spurned—and as our creed was reviled in his person, and vindicated in his conviction, so I would give it its noblest triumph in his sentence, and merely consign him to *the punishment of its mercy.*

But, indeed, my Lord, the fate of this half infidel, half trading martyr, matters very little in comparison of that of the thousands he has corrupted. He has literally disseminated a moral plague, against which even the nation's quarantine can scarce avail us It has poisoned the fresh blood of infancy—it has disheartened the last hope of age—if his own account of its circulation *be correct*, hundreds of thousands must be this instant tainted *with the infectious* venom, whose sting dies not with the destruc-

tion of the body. Imagine not because the pestilence smites not at once, that its fatality is less certain—imagine not because the lower orders are the earliest victims, that the most elevated will not suffer in their turn; the most mortal chillness begins at the extremities, and you may depend upon it, nothing but time and apathy are wanting to change this healthful land into a charnel-house, where murder, anarchy, and prostitution, and the whole hell-brood of infidelity, will quaff the heart's blood of the consecrated and the noble. My Lord, I am the more indignant at these designs, because they are sought to be concealed in the disguise of liberty. It is the duty of every real friend to liberty to tear the mask from the fiend who has usurped it. No, no, this is not our Island Goddess, bearing the mountain freshness on her cheeks, and scattering the valley's bounty from her hand, known by the lights that herald her fair presence, the peaceful virtues that attend her path, and the long blaze of glory that lingers in her trian—it is a demon, speaking fair indeed—tempting our faith with airy hopes and visionary realms, but even within the foldings of its mantle, hiding the bloody symbol of its purpose. Hear not its sophistry; guard your child against it; draw round your homes, the consecrated circle which it dare not enter. You will find an amulet in the religion of your country—it is the great mound raised by the Almighty for the protection of humanity—it stands between you and the lava of human passions; and oh, believe me, if you wait tamely by, while it is basely undermined, the fiery deluge will roll on, before which all that you hold dear, or venerable, or sacred will wither into ashes. Believe no one who tells you that the friends of freedom are now, or ever were, the enemies of religion. They know too well that rebellion against God cannot prove the basis of government for man, and that the loftiest structure impiety can raise is but the Babel monument of its impotence, and its pride, mocking the builders with a moment's strength, and then covering them with inevitable confusion. Do you want an example?—only look to France. The microscopic vision of your rabble blasphemers has not sight enough to contemplate the mighty minds which commenced her revolution. The wit—the sage—the orator—the hero—the whole family of genius furnished forth their treasures, and gave them nobly to the nation's exigence; they had *great provocation*—they had a glorious cause—they

had all that human potency could give them. But they relied too much upon this human potency—they abjured their God, and, as a natural consequence, they murdered their king—they culled their polluted deities from the brothel, and the fall of the idol extinguished the flame of the altar.—They crowded the scaffold with all their country held of genius or of virtue, and when the peerage and the prelacy were exhausted, the mob-executioner of to-day became the mob-victim of to-morrow. No sex was spared—no age respected—no suffering pitied: and all this they did in the sacred name of liberty, though in the deluge of human blood, they left not a mountain top for the ark of liberty to rest on. But Providence was neither "dead nor sleeping." It mattered not that for a moment their impiety seemed to prosper—that victory panted after their ensanguined banners—that as their insatiate eagle soared against the sun, he seemed but to replume his wing and to renew his vision—it was only for a moment; and you see at last that in the very banquet of their triumph, the Almighty's vengeance *blazed upon the wall*, and their diadem fell from the brow of the idolater.

My Lord, I will not abjure the altar, the throne, and the constitution for the bloody tinsel of this revolutionary pantomime. I prefer my God, to the impious democracy of their pantheon.—I will not desert my king for the political equality of their pandemonium. I must see some better authority than the Fleet-street temple, before I forego the principles which I imbibed in my youth, and to which I look forward as the consolation of my age; those all-protecting principles which at once guard, and consecrate, and sweeten the social intercourse—which give life, happiness; and death, hope; which constitute man's purity his best protection, placing the infant's cradle and the female's couch beneath the sacred shelter of the national morality. Neither Mr. Paine or Mr. Palmer, nor all the venom-breathing brood, shall swindle from me the book where I have learned these precepts.—In despite of all their scoff, and scorn, and menacing, I say, of the sacred volume they would obliterate, it is a book of facts, as well authenticated as any heathen history—a book of miracles, incontestibly avouched—a book of prophecy, confirmed by past as well as present fulfilment—a book of poetry, pure and natural, and elevated even to inspiration—a book of morals, such as human wisdom never framed for the perfection of human

happiness. My Lord, I will abide by the precepts, admire the beauty, revere the mysteries, and, as far as in me lies, practise the mandates of this sacred volume; and should the ridicule of earth, and the blasphemy of hell assail me, I shall console myself by the contemplation of those blessed spirits, who, in the same holy cause have toiled, and shone, and suffered. In the "goodly fellowship of the saints"—in the "noble army of the martyrs"—in the society of the great, and good, and wise of every nation; if my sinfulness be not cleansed, and my darkness illuminated, at least my pretentionless submission may be excused. If I err with the luminaries I have chosen for my guides, I confess myself captivated by the loveliness of their aberrations. If they err, it is in a heavenly region—if they wander, it is in fields of light—if they aspire, it is at all events a glorious daring; and rather than sink with infidelity into the dust, I am content to cheat myself with their vision of eternity. It may indeed be nothing but delusion, but then I err with the disciples of philosophy and of virtue—with men who have drank deep at the fountain of human knowledge, but who dissolved not the pearl of their salvation in the draught. I err with Bacon, the great Bacon—the great confidant of nature, fraught with all the learning of the past, and almost prescient of the future; yet too wise not to know his weakness, and too philosophic not to feel his ignorance. I err with Milton, rising on an angel's wing to heaven, and like the bird of morn, soaring out of light, amid the music of his grateful piety. I err with Locke, whose pure philosophy only taught him to adore its source, whose warm love of genuine liberty was never chilled into rebellion with its author. I err with Newton, whose star-like spirit shot athwart the darkness of the sphere, too soon to re-ascend to the home of his nativity. With men like these, my Lord, I shall remain in error, nor shall I desert those errors even for the drunken death-bed of a Paine, or the delirious war-whoop of the surviving fiends, who would erect his altar on the ruins of society. In my opinion it is difficult to say, whether their tenets are more ludicrous, or more detestable. They will not obey the King, or the Prince, or the Parliament, or the Constitution, but they will obey Anarchy. They will not believe in the Prophets—in Moses—in the Apostles—in Christ—but they believe Tom Paine! With no government but confusion, and no creed but

scepticism, I believe, in my soul, they would abjure the one if it became legitimate, and rebel against the other if it was once established.—Holding, my Lord, opinions such as these, I could consider myself culpable, if, at such a crisis, I did not declare them. A lover of my country, I yet draw a line between patriotism and rebellion. A warm friend to liberty of conscience, I will not confound toleration with infidelity. With all its ambiguity, I shall die in the doctrines of the Christian faith: and with all its errors, I am contented to live under the glorious safeguards of the British Constitution.

LETTER OF MR. PHILLIPS

TO THE KING.

Sire,—When I presume to address you on the subject which afflicts and agitates the country, I do so with the most profound sentiments of respect and loyalty. But I am no flatterer. I wish well to your illustrious house, and therefore address you in the tone of simple truth—the interests of the King and Queen are identified, and her majesty's advocate must be yours. The degradation of any branch of your family, must, in some degree, compromise the dignity of all, and be assured there is as much danger as discredit in familiarizing the public eye to such a spectacle. I have no doubt that the present exhibition is not your royal wish; I have no doubt it is the work of wily sycophants and slanderers, who have persuaded you of what they know to be false, in the base hope that it may turn out to be profitable. With the view, then, of warning you against interested hypocrisy, and of giving to your heart its natural humane and noble inclination, I invoke your attention to the situation of your persecuted consort! I implore of you to consider whether it would not be for the safety of the state, for the tranquillity of the country, for the honour of your house, and for the interests alike of royalty and humanity, that an helpless female should be permitted to pass in peace the few remaining years which unmerited misery has spared to her.

It is now, Sire, about five and twenty years since her majesty landed on the shores of England—a princess by birth—a queen by marriage—the relative of kings—and the daughter and the sister of a hero. She was then young—direct from the indulgence of a paternal court—the blessing of her aged parents, of whom she was the hope and stay—and happiness shone brightly o'er her; her life had been all sunshine—time for her had only trod on flowers; and if the visions which endear, and decorate and hallow home, were vanished for ever, still did she resign

them for the sacred name of wife, and sworn affection of a royal husband, and the allegiance of a glorious and gallant people. She was no more to see her noble father's hand unhelm the warrior's brow to fondle over his child—no more for her a mother's tongue delighted as it taught: that ear which never heard a strain, that eye which never opened on a scene, but those of careless, crimeless, cloudless infancy, was now about to change its dulcet tones and fairy visions for the accent and the country of the stranger. But she had heard the character of Britons—she knew that chivalry and courage co-existed—she knew that where the brave man and the freeman dwelt, the very name of *woman* bore a charmed sway; and where the voice of England echoed your royal pledge, to "love and worship, and cleave to her alone," she but looked upon your Sire's example, and your nation's annals, and was satisfied.—Pause and contemplate her enviable station at the hour of these unhappy nuptials! The created world could scarcely exhibit a more interesting spectacle There was no earthly bliss of which she was not either in the possession or the expectancy. Royal alike by birth and alliance—honoured as the choice of England's heir, reputed the most accomplished gentleman in Europe—her reputation spotless as the unfallen snow—her approach heralded by a people's prayer, and her footsteps obliterated by an obsequious nobility—her youth, like the lovely season which it typified, one crowded garland of rich and fragrant blossoms, refreshing every eye with present beauty, and filling every heart with promised benefits!—No wonder that she feared no famine in that spring-tide of her happiness—no wonder that her speech was rapture, and her step was buoyancy! She was the darling of parents' hearts; a kingdom was her dower—her very glance, like the sun of heaven, diffused light, and warmth, and luxury around it: in her public hour, fortune concentrated all its rays upon her; and when she shrunk from its too radiant noon, it was within the shelter of a husband's love, which God and nature, and duty and morality, assured her unreluctant faith should be eternal. Such was she then—all joy and hope, and generous credulity; the credulity that springs from honour and from innocence. And who could blame it? You had a world to choose from, and she was your selection—your ages *were compatible*—your births were equal—you had drawn her *from the house* where she was honourable and happy—you had

a prodigal allowance showered on you by the people—you had bowed your anointed head before the altar, and sworn by its majesty to cherish and protect her; and this you did in the presence of that moral nation from whom you hold the crown, and in the face of that church of which you are the guardian. The ties which bound you were of no ordinary texture—you stood not in the situation of some secluded profligate, whose brutal satiety might leave its victim to a death of solitude, where no eye could see, nor echo tell the quiverings of agony. Your elevation was too luminous and too lofty to be overlooked, and she, who confided with a vestal's faith and a virgin's purity in your honour and your morals, had a corroborative pledge in that publicity, which could not leave her to suffer or be sinned against in secret. All the calculations of her reason, all evidence of her experience, combined their confirmation. Her own paternal home was purity itself, and yours might have bound republicanism to royalty; it would have been little less than treason to have doubted you; and, oh! she was right to brush away the painted vermin that infest a court, who would have withered up her youthful heart with the wild errors of your ripe minority! Oh, she was right to trust "Fair England's" heir, and weigh but as a breath-blown grain of dust, a thousand follies and a thousand faults balanced against the conscience of her husband. She did confide—and what has been the consequence?

History must record it, Sire, when the brightest gem in your diadem shall have mouldered, that this young, confiding, inexperienced creature had scarcely heard the last congratulatory address upon her marriage, when she was exiled from her husband's bed, banished from her husband's society, and abandoned to the pollution of every slanderous sycophant who chose to crawl over the ruin? Merciful God! was it meet to leave a human being so situated, with all her passions excited and inflamed, to the impulses of such abandonment? Was it meet thus to subject her inexperienced youth to the scorpion sting of exasperated pride, and all its incidental natural temptations? Was it right to fling the shadow of a husband's frown upon the then unsullied snow of her reputation? Up to the blight of that all-withering hour no human tongue dared to asperse her character. The sun of patronage was not *then* strong enough to quicken into life the *serpent brood of slanderers*: no starveling aliens, no hungry

tribe of local expectants, then hoping to fatten upon the offals of the royal reputation. She was not long enough in widowhood, to give the spy and the perjurer a colour for their inventions. The peculiarities of the foreigner; the weakness of the female—the natural vivacity of youthful innocence, could not then be tortured into "demonstrations strong;" for you, yourself, in your recorded letter, had left her purity not only unimpeached, but unsuspected. That invaluable letter, the living document of your separation, gives us the only reason for your exile—that your "inclinations," were not in your power! That, Sire, and that alone, was the terrific reason which you gave your consort for this heart-rending degradation. Perhaps they were not; but give me leave to ask, are not the obligations of religion independent of us? Has any man the right to square its solemnities according to his rude caprices? Am I, your lowly subject, to understand that I may kneel before the throne of God, and promise conjugal fidelity till death, and self-absolve myself, whatever moment it suits my "inclination?" Not so will that mitred bench, who see her majesty arraigned before them, read to you this ceremony. They will tell you it is the most solemn ordinance of man—consecrated by the approving presence of our Saviour—acknowledged by the whole civilized community—the source of life's purest pleasures, and of death's happiest consolations—the rich fountain of our life and being, whose draught not only purifies existence, but causes man to live in his posterity;—they will tell you that it cannot perish by "inclination," but by crime; and that if there is any difference between the prince and the peasant who invoke its obligation, it is the more enlarged duty entailed upon him, to whom the Almighty has vouchsafed the influence of an example.

Thus, then, within one year after her marriage, was she flung, "like a loathsome weed," upon the world, no cause assigned except your loathing inclination! It mattered nothing, that for you she had surrendered all her worldly prospects—that she had left her home, her parents and her country—that she had confided in the honour of a prince, and the heart of a man, and the faith of a christian; she had, it seems, in one little year, "outlived your liking," and the poor, abandoned, branded, heart-rent outcast, must bear it all in silence, for—*she was a defenceless woman, and a stranger.* Let any man of ordinary feeling think on her *situation at this* trying crisis, and say he does not feel his heart's

blood boil within him! Poor unfortunate! who could have envied her salaried shame, and her royal humiliation? The lowest peasant in her reversionary realm was happy in the comparison. The parents that loved her were far, far away—the friends of her youth were in another land—she was alone, and he who should have rushed between her and the bolt of heaven, left her exposed to a rude world's caprices. And yet she lived, and lived without a murmur; her tears were silent—her sighs were lonely; and when you, perhaps, in the rich blaze of earth's magnificence, forgot that such a wretch existed, no reproach of her's awoke your slumbering memory. Perhaps she cherished the visionary hope that the babe whose "perilous infancy" she cradled, might one day be her hapless mother's advocate! How fondly did she trace each faint resemblance! Each little casual paternal smile, which played upon the features of that child, and might some distant day be her redemption! How, as it lisped the sacred name of father, did she hope its innocent infant tone might yet awake within that father's breast some fond association! Oh, sacred fancies! Oh, sweet and solemn visions of a mother—who but must hallow thee! Blest be the day-dream that beguiles her heart, and robes each cloud that hovers o'er her child in airy colours of that heart's creation! Too soon life's wintry whirlwind must come to sweep the prismed vapour into nothing.

Thus, Sire, for many and many a heavy year did your deserted Queen beguile her solitude. Meanwhile for *you* a flattering world assumed its *harlot* smiles—the ready lie denied your errors—the villain courtier deified each act, which in an humble man was merely duty; and mid the din of pomp, and mirth, and revelry, if remorse spoke, 'twas inarticulate. Believe me, Sire, when all the tongues that flattered you are mute, and all the gaudy pageants that deceived you are not even a shadow, an awful voice will ask in thunder, did your poor wife deserve this treatment, merely from some distaste of "inclination?" It must be answered. Did not the altar's vow demand a strict fidelity, and was it not a solemn and a sworn duty, "for better and for worse," to watch and tend her—correct her waywardness by gentle chiding and fling the fondness of a husband's love between her errors and the world? It must be answered, where the poorest rag upon the poorest beggar in your realm, shall have the splendour of a coronation garment.

Sad, alas! were these sorrows of her solitude—but sad as they were, they were but in their infancy. The first blow passed—a second and severer followed. The darling child, over whose couch she shed her silent tear—upon whose head she poured her daily benediction—in whose infant smile she lived, and moved, and had her being, was torn away, and in the mother's sweet endearments she could no longer lose the miseries of the wife. Her father, and her laurelled brother too, upon the field of battle, sealed a life of glory, happy in a soldier's death, far happier that this dreadful day was spared them! Her sole surviving parent followed soon, and though they left her almost alone on earth, yet how could she regret them? she has at least the bitter consolation, that their poor child's miseries did not break their hearts. Oh, miserable woman, made to rejoice over the very grave of her kindred, in mournful gratitude that their hearts are marble.

During a long probation of exile and wo, bereft of parents, country, child and husband, she had one solace still—her *character* was unblemished.—By a refinement upon cruelty, even that consolation was denied her. Twice had she to undergo the inquisition of a *secret* trial, originating in foul conspiracy, and ending in complete acquittal. The charity of her nature was made the source of crime—the peculiarities inseparable from her birth were made the ground of accusation—her very servants were questioned whether every thought, and word, and look, and gesture, and visit, were not so many *overt acts* of adultery; and when her most sacred moments had been heartlessly explored, the tardy verdict which freed her from the guilt, could not absolve her from the humiliating consciousness of the accusation. Your gracious father, indeed, with a benevolence of heart more royal than his royalty, interposed his arm between innocence and punishment; for punishment it was, most deep and grievous, to meet discountenance from all your family, and see the fame which had defied all proof made the capricious sport of hint and insinuation, while that father lived, she still had some protection, even in his night of life there was a sanctity about him which awed the daring of the highway slanderer—his honest, open, genuine *English* look, would have silenced a whole banditti of Italians. Your father acted upon the principles he professed. He was not more reverenced as a king than he was beloved and respected as a man; and no doubt, he felt how poignant it must have been to be de-

nounced as a criminal without crime, and treated as a widow in her husband's life-time. But death was busy with her best protectors, and the venerable form is lifeless now, which would have shielded a daughter and a Brunswick. He would have warned the Milan panders to beware the honour of his ancient house; he would have told them that a prying, pettifogging, purchased inquisition upon the unconscious privacy of a royal female, was not in the spirit of the English character; he would have disdained the *petty larceny* of any *diplomatic pickpocket;* and he would have told the whole rabble of Italian informers and swindling ambassadors, that his daughter's existence should not become a perpetual proscription; that she was doubly allied to him by birth and marriage; and that those who exacted all a wife's obedience, should have previously procured for her a husband's countenance. God reward him! There is not a father or a husband in the land, whose heart does not *at this moment* make a pilgrimage to his monument.

Thus having escaped from two conspiracies equally affecting her honour and life, finding all conciliation hopeless, bereft by death of every natural protector, and fearing perhaps that *practice might make perjury consistent*, she reluctantly determined on leaving England. One pang alone embittered her departure—her darling, and in despite of all discountenance, her duteous child, clung round her heart with natural tenacity. Parents who love, and feel that very love compelling separation, can only feel for her. Yet how could she subject that devoted child to the humiliation of her mother's misery! How reduce her to the sad alternative of selecting between separated parents! She chose the generous, the noble sacrifice—self-banished, the world was before her—one grateful sigh for England—one tear—the last, last tear upon her daughter's head—and she departed.

Oh Sire, imagine her at that departure! How changed! how fallen, since a few short years before, she touched the shores of England! The day-beam fell not on a happier creature—creation caught new colours from her presence, joy sounded its timbrel as she passed, and the flowers of birth, of beauty, and of chivalry, bowed down before her. But now, alone, an orphan and a widow! her gallant brother in his shroud of glory; no arm to shield, no tongue to advocate, no friend to follow an o'erclouded fortune, branded, degraded, desolate, she flung herself once more upon the wave,

to her less fickle than a husband's promises! I do not wonder that she has now to pass through a severer ordeal, because impunity gives persecution confidence. But I marvel indeed much, that then, after the agony of an ex parte trial, and the triumph of a complete though lingering exculpation, the natural spirit of English justice did not stand embodied between her and the shore, and bear her indignant to your capital. The people, the peerage, the prelacy should have sprung into unanimous procession: all that was noble or powerful, or consecrated in the land, should have borne her to the palace gate, and demanded why their Queen presented to their eye this gross anomaly! Why her anointed brow should bow down in the dust, when a British verdict had pronounced her innocence! Why she was refused that conjugal restitution, which her humblest subject had a right to claim! Why the annals of their time should be disgraced, and the morals of their nation endure the taint of this terrific precedent; and why it was that after their countless sacrifices for your royal house, they should be cursed with *this pageantry* of royal humiliation! Had they so acted the dire affliction of this day might have been spared us. We should not have seen the filthy sewers of Italy disgorge a living leprosy upon our throne; and slaves and spies, imported from a creedless brothel, land to attaint the sacred Majesty of England! But who, alas! will succour the unfortunate? The cloud of your displeasure was upon her, and the gay, glittering, countless insect swarm of summer friends, abide but in the sun-beam! She passed away—with sympathy I doubt not, but in silence.

Who could have thought, that in a foreign land, the restless fiend of persecution would have haunted her? Who could have thought, that in those distant climes, where her distracted brain had sought oblivion, the demoniac malice of her enemies would have followed? who could have thought that any human form which had an heart, would have skulked after the mourner in her wanderings, to note and con every unconscious gesture? who could have thought, that such a man there was, who had drank at the pure fountain of our British law! who had seen eternal justice in her sanctuary! who had invoked the shades of Holt and Hardwicke, and held high converse with those mighty spirits, whom mercy hailed in heaven as her representatives on earth.

Yet such a man there was; who on the classic shores of Como,

even in the land of the illustrious Roman, where every stone entombed an hero, and every scene was redolent of genius, forgot his name, his country, and his calling, to hoard such coinable and rabble slander! oh, sacred shades of our departed sages! avert your eyes from this unhallowed spectacle; the spotless ermine is unsullied still; the ark yet stands untainted in the temple, and should unconsecrated hands assail it, there is a lightning still, which would not slumber! No, no; the judgment seat of British law is to be soared, not *crawled* to; it must be sought upon an eagle's pinion and gazed at by an eagle's eye; there is a radiant purity around it, to blast the glance of grovelling speculation. His labour was vain. Sire, the people of England will not listen to Italian witnesses, nor ought they. Our Queen, has been, before this, twice assailed, and assailed on the same charges. Adultery, nay, pregnancy, was positively sworn to, one of the ornaments of our navy, captain Manby, and one of the most glorious heroes who ever gave a nation immortality, a spirit of Marathon or old Thermopylæ; he who planted England's red cross on the walls of Acre, and showed Napoleon, it was invincible, were the branded traitors to their sovereign's bed! Englishmen, and, greater scandal, *English women*, persons of rank, and birth, and education, were found to depose to this infernal charge! the royal mandate issued for inquiry; Lord Erskine, Lord Ellenborough, a man who had dandled accusations from his infancy, sat on the commission; and what was the result? *They found a verdict of perjury against her base accusers!* The very child for whose parentage she might have shed her sacred blood, was proved beyond all possible denial, to have been but the adoption of her charity.—"We are happy to declare to your majesty our perfect conviction, that there is no foundation whatever for believing, (I quote the very words of the commissioners,) that the child now with the princess, is the child of her royal highness, or that she was delivered of any child in the year 1802; nor has any thing appeared to us which would warrant the belief that she was pregnant in that year, *or at any other period within the compass of our inquiries.*" Yet people of rank, and station, moving in the highest society in England, admitted even to the sovereign's court, actually volunteered their sworn attestation of this falsehood! Twenty years have rolled over her since, and yet the same foul charge of adultery, sustained not as before by the plausible fa-

brications of Englishmen, but bolstered by the habitual inventions of Italians, is sought to be affixed *to the evening of her life*, in the face of a generous and a loyal people! A kind of *sacramental shipload*—a packed and assorted cargo of human affidavits has been consigned, it seems, from Italy to Westminster: thirty-three thousand pounds of the people's money paid the pedlar who selected the articles; and with this infected freight, which should have performed quarantine before it vomited its *moral pestilence* amongst us, the Queen of England is sought to be attainted! It cannot be, Sire; we have given much, very much indeed, to foreigners, but we will not concede to them the hard-earned principles of British justice. It is not to be endured, that two acquittals should be followed by a third experiment: that when the English testament has failed, an *Italian missal's* kiss shall be resorted to; that when people of character here have been discredited, others should be recruited who have no character any where; but, above all, it is intolerable, that a defenceless woman should pass her life in endless persecution, with one trial in swift succession following another, in the hope perhaps, that her noble heart which has defied all proof should perish in the torture of eternal accusation. Send back, then, to Italy, those alien adventurers; the land of their birth, and the habits of their lives, alike unfit for an English court of justice. There is no spark of freedom—no grace of religion—no sense of morals in their degenerate soil. Effemimate in manners; sensual from their cradles; crafty, venal, and officious; naturalized to crime; outcasts of credulity; they have seen from their infancy their court a bagnio, their very churches scenes of daily assassination! their faith is form; their marriage ceremony a mere mask for the most incestuous intercourses; gold is the god before which they prostrate every impulse of their nature. "A euri sacra fames! quid non mortalia pectora cogis!" the once indignant exclamation of their antiquity has become the maxim of their modern practice.

> No nice extreme a *true Italian* knows;
> But bid him go to hell—to hell he goes.

Away with them any where from us: they cannot live in England: they will die in the purity of its moral atmosphere.

Meanwhile during this accursed scrutiny, even while the legal

blood-hounds were on the scent, the last dear stay which bound her to the world, parted, *the princess Charlotte died!* I will not harrow up a father's feelings, by dwelling on this dreadful recollection. The poet says, that even grief finds comfort in society, and England wept with *you.* But, oh, God! what must have been that hapless mother's misery, when first the dismal tidings came upon her? The darling child over whose cradle she had shed so many tears—whose lightest look was treasured in her memory—who, amid the world's frown, still smiled upon her—the fair and lovely flower, which, when her orb was quenched in tears, lost not its filial, its divine fidelity! It was blighted in its blossom—its verdant stem was withered, and in a foreign land she heard it, and *alone*—no, no, not quite alone. The myrmidons of British hate were around her, and when her heart's salt tears were *blinding her*, a German nobleman was *plundering her letters.* Bethink you, Sire, if that fair paragon of daughters lived, would England's heart be wrung with this inquiry? Oh! she would have torn the diamonds from her brow, and dashed each royal mockery to the earth, and rushed before the people, not in a monarch's, but in *nature's majesty*—a child appealing for her persecuted mother! and God would bless the sight, and man would hallow it, and every little infant in the land who felt a mother's warm tear upon her cheek, would turn by instinct to that sacred summons. Your daughter in her shroud, is *yet alive*, Sire—her spirit is amongst us—it rose untombed when her poor mother landed—it walks amid the people—it has left the angels to protect a parent.

The theme is sacred, and I will not sully it—I will not recapitulate the griefs, and, worse than griefs, the little pitiful, deliberate insults which are burning on every tongue in England. Every hope blighted—every friend discountenanced—her kindred in their grave—her declared innocence made but the herald to a more cruel accusation—her two trials followed by a third, a third on the same charges—her royal character insinuated away by German *picklocks* and Italian conspirators—her divorce sought by an extraordinary procedure, upon grounds untenable before any usual lay or ecclesiastical tribunal—her name meanly erased from the Liturgy—her natural rights as a mother disregarded, and her civil right as a queen sought to be exterminated!

and all this—all, because she dared to touch the sacred soil of liberty! because she did not banish herself, an implied adulteress! because she would not be bribed into an abandonment of herself and of the country over which she has been called to reign, and to which her heart is bound by the most tender ties, and the most indelible obligations. Yes, she might have lived wherever she selected, in all the magnificence which boundless bribery could procure for her, offered her by those who affect such tenderness for your royal character, and such devotion to the honour of her royal bed. If they thought her guilty, as they allege, this daring offer was a double treason—treason to your majesty, whose honour they compromised—treason to the people, whose money they thus prostituted. But she spurned the infamous temptation, and she was right. She was right to front her insatiable accusers; even were she guilty, never was there victim with such crying palliations, but all innocent, as in my conscience I believe her to be, not perhaps of the levities contingent on her birth, and which shall not be converted into constructive crime, but of the cruel charge of adultery, now for a third time produced against her. She was right, bereft of the court, which was her natural residence, and all buoyant with innocence as she felt, bravely to fling herself upon the wave of the people—that people will protect her—Britain's red cross is her flag, and Brunswick's spirit is her pilot. May the Almighty send her royal vessel triumphant into harbour!

Sire, I am almost done; I have touched but slightly on your Queen's misfortunes—I have contracted the volume of her injuries to a single page, and if upon that page one word offend you, impute it to my zeal, not my intention. Accustomed all my life to speak the simple truth, I offer it with fearless honesty to my sovereign. You are in a difficult—it may be in a most perilous emergency. Banish from your court the sycophants who abuse you; surround your palace with approving multitudes, not with armed mercenaries. Other crowns may be bestowed by despots and entrenched by cannon; but

The throne we honour is the people's choice.

Its safest bulwark is the popular heart, and its brightest ornament *domestic virtue*. Forget not also, there is a throne which is above even the throne of England—where flatterers cannot come

—where kings are sceptreless. The vows you made are written in language brighter than the sun, and in the course of nature you must soon confront them; prepare the way by effacing now each seeming, slight and fancied injury; and when you answer the last awful trumpet, be your answer, this: "GOD, I FORGAVE, I HOPE TO BE FORGIVEN."

But if against all policy, and all humanity, and all religion, you should hearken to the counsels which further countenance this unmanly persecution, then must I appeal not to you, but to your parliament.—I appeal to the *sacred prelacy of England*, whether the holy vows which their high church administered, have been kept towards this illustrious lady—whether the hand of man should have erased her from that page, with which it is worse than blasphemy in man to interfere—whether, as Heaven's vicegerents, they will not abjure the sordid passions of the earth, imitate the inspired humanity of their Saviour; and like Him, protect a persecuted creature from the insatiate fangs of ruthless, bloody, and untiring accusation!

I appeal *to the hereditary peerage of the realm*, whether they will aid this levelling denunciation of their Queen—whether they will exhibit the unseemly spectacle of illustrious rank and royal lineage degraded for the crime of claiming its inheritance —whether they will hold a sort of civil crimination, where the accused is entitled to the *mercy of an impeachment:* or whether they will say with their immortal ancestors—"We will not tamper with the laws of England!"

I appeal *to the ermined, independent judges*, whether life is to be made a perpetual indictment—whether two acquittals should not discountenance a third experiment—whether, if any subject suitor came to their tribunal *thus circumstanced*, claiming either divorce or compensation, they would grant his suit; and I invoke from them, by the eternal majesty of British justice, the same measure for the peasant and the prince!

I appeal to the *Commons in Parliament assembled*, representing the fathers and the husbands of the nation—I beseech them by the outraged morals of the land! By the overshadowed dignity of the throne! by the holiest and tenderest forms of religion! by the honour of the army, the sanctity of the church, the safety of the state, and character of the country! by the solemn virtues

which consecrate their hearths! by those fond endearments of nature and of habit which attach them to their cherished wives and families, I implore their tears, their protection, and their pity upon the married widow and the childless mother!

To those high powers and authorities I appeal with the firmest confidence in their honour, their integrity, and their wisdom. May their conduct justify my faith, and raise no blush on the cheek of our posterity!—I have the honour to subscribe myself Sire, your Majesty's most faithful subject,

CHARLES PHILLIPS.

THE END

SPEECHES

OF

RIGHT HON. JOHN PHILPOT CURRAN,

MASTER OF THE ROLLS

IN IRELAND.



PREFACE TO THE FIRST EDITION.

It was formerly imagined that the study of the English law, from its nature, rendered its professors incapable of eloquence.

Hume seems to have been a convert to the opinion; and though in one of his essays he almost prophesies, that at a future day eloquent orators would arise in the British Senate; yet with respect to the bar he does not even insinuate a similar prediction. At that time the notion appeared sanctioned by experience, and eloquent barristers not having previously existed, the thing was deemed impossible. The period of an Erskine and a Curran* will be hereafter considered a new era in the eloquence of the bar of these kingdoms. Before their time the publication of the state trials exhibit nothing of the orator in the pleadings of the lawyers; even the cause of the seven bishops, on the event of which depended the liberties of England, could not excite energy in their advocates. Their speeches are excellent in legal reasoning: they have no pretension to eloquence. The alteration of the law, at the revolution, by permitting an address to a jury in cases of high treason, enlarged the field of the barrister. Notwithstanding which, in the numerous prosecutions of the adherents of the pretender, the counsel for the accused were insensible to the valuable privilege, and their languid defences would warrant the conclusion, that the magnitude of the crime with which the client was charged, extinguished the talents of his advocate, and deprived him of the benefit afforded by the legislature. The genius of Erskine, after nearly the lapse of a century, called forth that inestimable statute into the full vigour of operation. On the trial of lord George Gordon, he seized the opportunity, and, with honour to himself and advantage to his country, laid the foundation of that high professional rank and character, which he has always so ably and independently maintained.

It is much to be regretted that Mr. Erskine's speeches as an advocate have not yet been published in a separate volume. They are only to be found in the printed reports of the trials in which he was engaged. And from the difficulty which the editor of the present volume experienced in collecting those of Mr. Curran, it is probable in a few years to procure Mr. Erskine's may be impossible.† From

* Dunning and Burgh preceded them, and were for a short time their contemporaries; they were as inferior to these as Cotta and Hortensius to Cicero.

† Since the second edition of this work came out, Mr. Erskine's speeches have been published. And either from more accurate notes of them having been taken at the time of their delivery, or from the revision of the advocate, that work is infinitely better edited than this. The present third edition is nothing more than the re-printing of the second edition. Imperfect as the former editions of this work have been, the

a similar neglect, few memorials are now to be had of the professional eloquence of Dunning. And of the forensic exertions of Burgh, nothing remains except an imperfect note of the speech he delivered at the bar of the Irish house of lords in the Valentia cause. To prevent the same fate attending those efforts of the talents of Mr. Curran, the memorials of which time has not yet destroyed, the editor gives this volume to the public. It appears under the disadvantage of being neither revised nor corrected by himself. His professional avocations would have prevented him yielding to such an application had it been made; and had he even enjoyed leisure for the task, it is more than probable, the modesty of genius, which always undervalues its own productions, would have dictated a refusal. The editor determined not to request, what he apprehended would not have been granted. This collection is therefore offered to the public, extracted from the printed ephemeral reports of the trials in which the speeches were delivered. Mr. Curran is neither responsible for this publication, nor for its demerits. And the editor has studiously avoided the alteration of the most apparent inaccuracies, from the indelicacy that would attend encroaching on the privilege which should be left to every public man, of correcting his own production, if at any time he should be disposed to exert it. His defences of Finny and Bond were considered by the bar as his ablest performances at the state trials of the year 1798. But, unfortunately, the imperfect reports, which from accident or design were given to the public, are rather memorandums of facts, than specimens of the talents of the advocate. If better could have been procured, the public should have had them.

The anonymous editor of the volume of Edmund Burke's parliamentary speeches, which appeared long before the edition of his works, sanctioned by himself, did not labour under the same disadvantage. Each of them had been previously sent into the world, touched and retouched by the orator himself into the highest state of polish and improvement. Perhaps the anxiety of finish is too apparent, and notwithstanding many fine strokes of the sublime, they are rather elegant political essays, than eloquent harangues. The orations of Cicero are come down to us in a state much superior to what they were when delivered; and it is clearly ascertained that the one against Verres, that for Milo, and the second Phillippic, are not those which were spoken at the time, but the compositions of subsequent retirement and study. And if our Irish advocate, in the period of his old age, in that interval between finishing the business of one world and entering upon the other, that period to which we all look forward as the season of the noblest enjoyment, should have leisure and inclination to follow the example of the Roman orator, this volume, by

imperfections of which, from the continuation of the causes assigned in the text, still exist. The editor has the satisfaction to know that he has by these imperfect labours contributed to extend the knowledge of Mr. Curran's talents not only to every part of Great Britain, but to the other side of the Atlantic. And it must be always a source of the highest gratification, that his humble endeavours to give a publicity as large as its merits, to the genius of his countryman, excited the editor of Mr. Erskine's forensic exertions to give them to the public in a separate work, before the lapse of time had rendered it impossible.

bringing to his recollection what might otherwise have been irrecoverably lost, may afford him the opportunity of leaving to posterity a memorial worthy of himself. If the smallest fragments of the eloquence of Crassus, who directed the education of Cicero; of Cotta, and Hortensius, who were his contemporaries and rivals, could now be procured, at what expense would they be purchased, with what avidity would they be read by every lover of polite literature.

This volume, going down to future times, even with all its manifold errors and imperfections, must be highly valuable. It will create a permanent interest in a name, which might only be known by tradition; and the eloquence of the Irish bar will be supported by better evidence than an "*Audivi Hiberniam olim floruisse eloquentia*," as nothing similar will then exist to induce a belief of the fact.

Ireland has still to experience the advantage of the union. If any such now exists, it is "*a speck not yet visible, a small seminal principle, rather than a formed body;*" but the extinction of an assembly, in which the liberty, the honour, and happiness of the country were the subjects of debate, must be the eternal mildew of the genius of the land. Such topics call forth every noble propensity of our nature, every generous affection of the heart, and stimulate every power of the mind. The splendid examples of parliamentary eloquence kindled the emulation of the bar. Flood preceded Burgh, Curran followed Grattan. England possessed a Pulteney, a Chatham, and a Fox, before she had a Dunning and an Erskine. They who fled for refuge against party squabbles, and civil dissensions, to the abolition of the parliament, were sadly mistaken. A spiritless tranquillity may be obtained; but the mind of man, to improve, must be agitated: and it is better occasionally to hear the dashing of the waves, than continually to exhale the pestilential effluvia of stagnant waters. The voices of the parliament were perishable, because man is not immortal. Had the institution remained, its virtues would have been permanent. For half a century before the union, we had been running a generous race of honourable friendly rivalship with England, in every thing great and good. We had acquired commerce and constitution. In the production of public character we were not inferior. If Britain boasted of Pulteney, Chatham, Townsend, Fox, Grey, Dunning, and Erskine, Ireland could enumerate Boyle, Malone, Perry, Flood, Grattan, Daly, Ponsonby, Burgh, and Curran. These men will have no successors—when but boys, their minds were expanded, and their honourable ambition was inflamed, with the growing grandeur of their country; and they came into the world fitted and prepared to discharge the duties imposed upon them by their station. Many of them are long since removed from the stage of life. Little did they imagine, that, from the tree which they had planted, withering almost ere it blossomed, no descendant of theirs should gather the fruit.—Little did they imagine, that Ireland was to rise only to fall; and but a moment of interval between her glory and her abasement. The physical and moral productions of man are governed by the same laws; the work of accomplishment is slow—the work of destruction is rapid. The skill of the architect and the labour

of an age erect the majestic edifice: a succession of talents, of wisdom, of integrity, form a constitution: the pick-axe of an ignorant workman levels the one with the dust, and the vote of a venal senate eternally annihilates the other. The Roman senate existed till the complete subversion of the western empire; but the parliament of Ireland yielded to the English minister, what Rome, in the days of her greatest degeneracy, never surrendered to the vices or the virtues of her emperors.

The only apology for this digression, if in truth it can be called such, is, that the writer is one, who, when not more than a child, has shed the tear of the heart, listening to the eloquence of a Flood and a Grattan, successfully contending for the rights of their native land. He was then of an age to understand such things, and cannot now forget that such things were:—whose feelings time has not yet subdued—but who, wishing to prevent his children being miserable, will think it a parental duty to educate them in sentiments more congenial to the humbler fortunes of their country. It is only by degrees the mind of man is reconciled to his situation; and it is to be hoped that these observations will be patiently endured, when even the flatterers of Augustus could, without fear of offence, style the death of Cato *nobile lethum*, and call Brutus and Cassius *ultimi Romanorum*.

These are neither the sentiments of a bad Irishman nor a bad subject. The man who deplores the extinction of the Irish Parliament, to be consistent with himself, must ardently wish success to England, in her present contest with France. The British empire, in the existing state of things, is the great bulwark of the liberties of Europe. And Ireland has still something well worth defending.

To enter upon a criticism of Mr. Curran's eloquence would exceed the limits of a preface. To assert that it is without defect would be absurd. The greatest orators of antiquity perceived and acknowledged their own deficiencies. The perusal of many of the following speeches, however inadequately reported, will enable the reader to form a better judgment than any elaborate critique. The editor, who has often observed him in the different branches of professional exertion, cannot omit, that in the cross-examination of a witness he is unequalled. The most intricate web that fraud, malice, or corruption ever wove against the life, fortune, or character of an individual, he can unravel. Let truth and falsehood be ever so ingeniously dovetailed into each other, he separates them with facility. He surveys his ground like a skilful general, marks every avenue of approach, knows when to attack, when to yield; instantly seizes the first inconsistency of testimony, pursues his advantage with dexterity and caution, till at last he completely involves perjury in the confusion of its contradictions. And while the bribed and suborned witness is writhing in the mental agony of detected falsehood, wrings from him the truth, and snatches the devoted victim from the altar. It is when in a case of this kind he speaks to a jury, that he appears as if designed by providence to be the refuge of the unfortunate, and the protector of the oppressed. In the course of his eloquence, the classic treasures of profane antiquity are exhausted. He draws fresh

supplies from the sacred fountain of living waters. The records of holy writ afford him the sublimest allusions. It is then he stirs every principle that agitates the heart or sways the conscience, carries his auditory whither he pleases, ascends from man to the Deity, and again almost seems to call down to earth fire from heaven. While they who listen, filled with a sense of inward greatness, feel the high nobility of their nature in beholding a being of the same species gifted with such transcendant qualities, and, wrapt in wonder and delight, have a momentary belief,—that to admire the talents, is to participate in the genius of the orator.

Mr. Curran has, from his first mixing with the world, enjoyed the intimate acquaintance of many who hold the first rank, in England and Ireland, for private integrity, public spirit, fine genius and literary acquirement, and is connected with some of them (not the least distinguished) in the bonds of the strictest friendship. In private life, his manners are cheerful, sportive and good-natured, never overvaluing himself.

The most limited talents in private intercourse were never forced by him into a feeling of inferiority, nor has he ever, in the most unrestrained hours of social mirth, panged the heart of any who were present: so well is his wit tempered by the urbanity of his disposition. It is much superior to that species which must always have an object to ridicule, and, to amuse a company, render one of the party miserable. Nor is it of that second rate mongrel kind, which always dwells in anecdote, to create an opportunity of quoting itself, but is of the purest genuine nature, flowing spontaneously from the subject of conversation.

The descendants of Mr. Curran, to the remotest period, may pride themselves on being sprung from a man, who, during seventeen years of public life, never voted in parliament contrary to the interest or liberty of his country; who, governing his political conduct by the maxims of an English whig and an Irish patriot, showed himself a genuine friend to the British empire—from him who never on any occasion was frowned by power or seduced by mean ambition into an abandonment of his client, but in every situation intrepidly performed the duty of an advocate.* Who, if he had been a man "*quoque facinore properans clarescere*," instead of disdaining to acquire honours by means which would have rendered him unworthy of wearing them, might early in life have attained the proudest professional situations.

The bar of Ireland will long hold in affectionate recollection, the man who always lived in an ingenuous and honourable intercourse with his competitors for fame, as Cicero did with Hortensius; who cherished, with the kindest notice, every appearance of excellence in the junior part of the profession; who never ostentatiously displayed his superiority; who, conscious of his great talents, bestowed praise wherever it was deserved; and was incapable of meanly detracting

* Mr. Erskine is entitled to similar praise, though he has never been placed in situations equally trying. The state of England in 1794, and that of Ireland in 1798, were very different.

from the merit of another to enhance his own. They will never forget him, who, on every occasion, proudly asserted the dignity and independence of the advocate, and never servilely surrendered even the least privilege of the profession. While his name will live for ever hallowed in the grateful remembrance of his country, *unless the heart of man shall become so corrupt, and his mind so perverted, that public virtue will neither be felt nor understood.*

PREFACE TO THE SECOND EDITION.

The demand of the public for Mr. Curran's speeches, notwithstanding three thousand copies, (including the whole of the first edition,) have been sold, induced the editor to publish a second edition. A few of Mr. Curran's parliamentary speeches are added to the collection contained in the first edition, which only consisted of those he delivered in the discharge of his professional duty. They are extracted from the Irish parliamentary debates; and indifferent as the notes of the speeches delivered in the courts of law may appear, these are still worse. The disappointment expressed almost by every purchaser, at not finding any of the parliamentary speeches in the first, induced the editor to add them in the present edition. They are given for the gratification of the public, although the editor is convinced, that they are in most instances inferior to the genius of Mr. Curran. In all of them, however, enough appears to enable the reader to form an idea, though probably an imperfect one, of Mr. Curran's eloquence in a popular assembly. It is to be regretted that the note of the speech on the catholic question, in the year 1793, is so defective, that it was impossible to venture to publish it, though it was one of the best he ever delivered in the house of commons. It contained a description of the rise, progress, and extinction of liberty in the nations of the world formerly most celebrated; and given with all the glowing energy of a Burke, without any of his eccentricity. The editor, from despair of obtaining it, did not solicit the correction of the orator for the former edition:—The duties of the high station in which Mr. Curran is now placed,* rendering the hope of success in such an application now less probable, it was not made on the present occasion. The editor, notwithstanding the imperfections of the work, is confident of its favourable reception with the public.—And he feels an honourable pride, that by this publication he may be the

* Mr. Curran, during the administration of Mr. Fox and lord Grenville, was made master of the rolls in Ireland, and has at last experienced that an independent spirit, public integrity accompanied by great talents are not insuperable obstacles to professional advancement.

Ireland has much cause to lament the dismissal of that administration: enlightened, liberal, and sagacious, the men who composed it understood the true interest of the British empire, and had entered upon the work of making Ireland a happy and united country, truly formidable to the enemy of Britain. They by whose means they have *been supplanted* have the merit of interrupting the labours of such men.

humble instrument of perpetuating to posterity the productions of a man, who will always be esteemed as one of the greatest ornaments of the age and the country in which he lived.

ADVERTISEMENT TO THE THIRD EDITION.

The following passages are selected from the Edinburgh Review, of the month of October, 1808, in which is reviewed the second edition of this work, which the writer of the article calls most properly an unauthenticated volume. The editor is sensible that the same epithet is equally applicable to the present edition. It is, in fact, nothing more than a re-printing of the second edition; and the editor has equally abstained from the correction of errors, which are evidently the mistakes of the reporters, from a wish of leaving, uninfringed, to Mr. Curran the full power of revising his own productions, if, at any time, he should be disposed to exert it. And it is to be ardently wished that the advocate may yet, before his mortal course is finished, enable some future editor to give the world a memorial more worthy of his talents.

"The wits of Queen Anne's time practised a sort of polite writing, characterized by purity, smoothness, and a kind of simple and temperate elegance. Their reasoning was correct and luminous, and their raillery terse and refined; but they never so much as aimed at touching the greater passions, or rising to the loftier graces of composition. Their sublimity was little more than a gentle and graceful solemnity; their invective went no further than polished sarcasm, and their vehemence than pretty vivacity. Even the older writers, who dealt in larger views and stronger language, the Hookers and Taylors, and Barrows, and Miltons, although they possessed, beyond all doubt, an original and commanding eloquence, had little of nature or rapid movement of passion about them. Their diction, though powerful, is loaded and laborious; and their imagination, though rich and copious, is neither playful nor popular. Even the celebrated orators of England have been deficient in some of these characteristics. The rhetoric of Fox was his logic;—the eloquence of Pitt consisted mainly in his talent for sarcasm, and for sounding amplification. Neither of them had much pathos—and but little play of fancy.

"Yet the style of which we are speaking is now familiar to the English public. But it was introduced by an Irishman; and may be clearly traced to the genius of Burke. There was no such composition known in England before his day. Bolingbroke, whom he is sometimes said to have copied, had none of it. He is infinitely more careless,—he is infinitely less impassioned. He has no such variety of imagery,—no such flights of poetry,—no such touches of tenderness,—no such visions of philosophy. The style has been defiled

since, indeed, by base imitations and disgusting parodies; and, in its more imitable parts, has been naturalized and transfused into the recent literature of our country; but it was of Irish origin, and still attains to its highest honours only in its native soil. For this we appeal to the whole speaking and writing of that nation,—to the speeches of Mr. Grattan, and even to the volume before us. With less of deep thought than the corrected compositions of Burke, and less of point and polish than the magical effusions of Grattan, it still bears the impression of that inflamed fancy which characterizes the eloquence of both, and is distinctly assimilated to them by those traits of national resemblance."

The Review, then, among other passages of the work, selects the following from the report of the trial; in the action brought by Hevey, against Major Sirr.—It is deemed unnecessary to give any more extracts from the Review, as those sufficiently speak the opinion of the critic.

"Mr. Curran then proceeds to the immediate cause of the action in question.

"'On the 8th of September last, Mr. Hevey was sitting in a public coffee-house. Major Sirr was there. Mr. Hevey was informed that the major had at that moment said, that he (Hevey) ought to have been hanged. The plaintiff was fired at the charge; he fixed his eye on Sirr, and asked if he had dared to say so? Sirr declared that he had, and had said truly. Hevey answered, that he was a slanderous scoundrel. At the instant Sirr rushed upon him, and assisted by three or four of his satellites, who had attended him in disguise, secured him, and sent him to the castle guard, desiring that a receipt might be given for the villain. He was sent thither. The officer of the guard chanced to be an Englishman, but lately arrived in Ireland; he said to the bailiffs, if this was in England, I should think this gentleman entitled to bail, but I don't know the laws of this country. However I think you had better loosen those irons on his wrists, or I think they may kill him.

"'Here he was flung into a room of about thirteen feet by twelve; it was called the hospital of the provost; it was occupied by six beds, in which were to lie fourteen or fifteen miserable wretches, some of them sinking under contagious diseases. Here he passed the first night without bed or food. The next morning his humane keeper, the Major, appeared. The plaintiff demanded, "why he was so imprisoned?" complained of hunger, and asked for the gaol allowance Major Sandys replied with a torrent of abuse, which he concluded by saying—"Your crime is your insolence to Major Sirr; however, he disdains to trample upon you; you may appease him by proper and contrite submission; but unless you do so, you shall rot where you are.—I tell you this, that if government will not protect us, by God, we will not protect them. You will probably (for I know your insolent and ungrateful hardiness) attempt to get out by an habeas corpus; but in that you will find yourself mistaken, as such a rascal deserves." Hevey was insolent enough to issue an habeas corpus, *and a return was* made upon it, that Hevey was in custody under a

warrant from General Craig, on a charge of treason. *This return was a gross falsehood fabricated by Sirr.*'

"If it be the test of supreme genius to produce strong and permanent emotions, the passages which we have quoted must be in the very highest style of eloquence. There is not a subject of these kingdoms, we hope, that can read them, without feeling his blood boil, and his heart throb with indignation; and without feeling, that any government which could tolerate or connive at such proceedings, held out a bounty to rebellion, which it would almost be dastardly to reject. The eloquence of these passages is in the facts which they recite; and it is far more powerful than that which depends upon the mere fancy or art of the orator. There are passages, however, of this more ornate description in the speech before us, which deserve to be quoted. The following is among the most striking. Mr. Curran is endeavouring to show, that the general publication of this transaction may be of use, as the means of letting England know the real condition and state of government in Ireland; and that the detail of a single authenticated fact is more likely to make an impression, than a more comprehensive but general picture. He then says,

"'If, for instance, you wished to convey to the mind of an English matron the horrors of that direful period, when, in defiance of the remonstrance of the ever to be lamented Abercrombie, our poor people were surrendered to the licentious brutality of the soldiery, by the authority of the state; you would vainly endeavour to give her a *general* picture of lust, and rapine, and murder, and conflagration. Instead of exhibiting the picture of an entire province, select a single object; and even in that single object do not release the imagination of your hearer from its task, by giving more than an outline: take a cottage; place the affrighted mother of her orphan daughters at the door, the paleness of death upon her face, and more than its agonies in her heart; her aching eye, her anxious ear, struggle through the mists of closing day, to catch the approaches of desolation and dishonour. The ruffian gang arrives; the feast of plunder begins; the cup of madness kindles in its circulation. The wandering glances of the ravisher become concentrated upon the shrinking and devoted victim. —You need not dilate, you need not expatiate; the unpolluted mother, to whom you tell the story of horror, beseeches you not to proceed; she presses her child to her heart; she drowns it in her tears; her fancy catches more than an angel's tongue could describe; at a single view she takes in the whole miserable succession of force, of profanation, of despair, of death. So it is in the question before us. If any man shall hear of this day's transaction, he cannot be so foolish as to suppose that we have been confined to a single character, like those now brought before you.'"

SPEECH OF MR. CURRAN

ON THE RIGHT OF ELECTION OF LORD MAYOR OF THE CITY OF DUBLIN.

DELIVERED BEFORE THE LORD LIEUTENANT AND PRIVY COUNCIL OF IRELAND 1790

My Lords,—I have the honour to appear before you as counsel for the commons of the corporation of the metropolis of Ireland, and also for Mr. Alderman Howison, who hath petitioned for your approbation of him as a fit person to serve as lord mayor, in virtue of his election by the commons to that high office; and in that capacity I rise to address you on the most important subject that you have ever been called upon to discuss.—Highly interesting and momentous indeed, my lords, must every question be, that, even remotely and eventually, may affect the well-being of societies, or the freedom, or the repose of nations: but that question, the result of which, by an immediate and direct necessity, must decide, either fatally or fortunately, the life or the death of that well-being, of that freedom, and that repose, is surely the most important subject on which human wisdom can be employed, if any subject on this side the grave can be entitled to that appellation.

You cannot therefore, my lords, be surprised to see this place crowded by such numbers of our fellow citizens: heretofore they were attracted hither by a strong sense of the value of their rights, and of the injustice of the attack upon them; they felt all the magnitude of the contest; but they were not disturbed by any fear for the event; they relied securely on the justice of their cause, and the integrity of those who were to decide upon it. But the public mind is now filled with a fear of danger, the more painful and alarming, because hitherto unforeseen: the

public are now taught to fear, that their cause may be of doubtful merits, and disastrous issue; that rights, which they considered as defined by the wisdom, and confirmed by the authority of written law, may, now, turn out to be no more than ideal claims, without either precision or security; that acts of parliament themselves are no more than embryos of legislation, or at best but infants, whose first labours must be, not to teach, but to learn; and which, even after thirty years of pupilage, may have thirty more to pass under that guardianship, which the wisdom of our policy has provided for the protection of minors.—Sorry am I, my lords, that I can offer no consolation to my clients on this head; and that I can only join them in bewailing, that the question, whose result must decide upon their freedom or servitude, is perplexed with difficulties, of which we never dreamed before, and which we are now unable to comprehend. Yet surely, my lords, that question must be difficult, upon which the wisdom of the representative of our dread sovereign, aided by the learning of his chancellor and his judges, assisted also by the talents of the most conspicuous of the nobles and the gentry of the nation, has been twice already employed, and employed in vain.—We know, my lords, that guilt and oppression may stand irresolute for a moment ere they strike, appalled by the prospect of danger, or struck with the sentiment of remorse; but to you, my lords, it were presumption to impute injustice: we must therefore suppose that you have denied your determination, not because it was dangerous, but because it was difficult to decide: and indeed, my lords, a firm belief of this difficulty, however undiscoverable by ordinary talents, is so necessary to the character which this august assembly ought to possess and to merit from the country, that I feel myself bound to achieve it by an effort of my faith if I should not be able to do so by any exertion of my understanding.

In a question therefore so confessedly obscure as to baffle so much sagacity, I am not at liberty to suppose, that certainty could be attained by a concise examination. Bending then, as I do, my lords, to your high authority, I feel this difficulty as a call upon me to examine it at large; and I feel it as an assurance, that I shall be heard with patience.

The lord mayor of this city hath from time immemorial been a magistrate, not appointed by the crown, but elected by his

fellow-citizens. From the history of the early periods of this corporation and a view of its charters and by-laws, it appears, that the commons had from the earliest periods participated in the important right of election to that high trust; and it was natural and just, that the whole body of citizens, by themselves, or their representatives, should have a share in electing those magistrates who were to govern them: as it was their birth-right to be ruled only by laws which they had a share in enacting.

The aldermen, however, soon became jealous of this participation, encroached by degrees upon the commons, and at length succeeded in engrossing to themselves the double privilege of eligibility and of election; of being the only body, out of which, and by which, the lord mayor could be chosen. Nor is it strange, that in those times, a board, consisting of so small a number as twenty-four members, with the advantages of a more united interest, and a longer continuance in office, should have prevailed, even contrary to so evident principles of natural justice and constitutional right, against the unsteady resistance of competitors, so much less vigilant, so much more numerous, and therefore so much less united.—It is the common fate of the indolent to see their rights become a prey to the active.—The condition upon which God hath given liberty to man is eternal vigilance; which condition if he break, servitude is at once the consequence of his crime and the punishment of his guilt.

In this state of abasement the commons remained for a number of years; sometimes supinely acquiescing under their degradation; sometimes, what was worse, exasperating the fury, and alarming the caution of their oppressors, by ineffectual resistance:—The slave that struggles without breaking his chain, provokes the tyrant to double it; and gives him the plea of self-defence for extinguishing what, at first, he only intended to subdue.

In the year 1672, it was directed by one of the new rules, made by the lord lieutenant and privy council, under the authority of the act of explanation, that "No person should be capable of serving in the office of lord mayor, until approved of by the lord lieutenant and council;" and this was a power given after the unhappy civil commotions in this country, to prevent any person, who was not a loyal subject, from holding so important a trust; and upon this single ground, namely, *disloyalty*, have *you, my* lords, any authority to withhold your approbation

From that time, till the year 1759, no farther alteration appears to have taken place in the mode of electing the chief magistrate. At this latter period the act of the 33 G. II. was passed the occasion and the object of that law are universally known. A city so increased in population, in opulence, and in consequence, could not tamely submit to have its corporate rights monopolised by a few, who where at once the tyrants of the metropolis, and the slaves of the government. Magistrates, elected by the board of aldermen, were in fact nominated by the court, and were held in derision and abhorrence by the people. The public peace was torn by unseemly dissensions; and the authority of the law itself was lost in the contempt of the magistrate The legislature felt itself called upon to restore the constitution of the city, to restore and ascertain the rights of the commons, and thereby to redeem the metropolis from the fatal effects of oppression, of servitude, and of anarchy.—In saying this, my lords, I am founded on the preamble of the act itself.—"Whereas dissensions and disputes have, from a dissatisfaction as to some parts of the present constitution of the corporation of the city of Dublin, arisen, and for some years past subsisted among several citizens of the said city, to the weakening the authority of the magistrates thereof, who are hereby rendered the less able to preserve the public peace within the said city: Therefore, for remedying the aforesaid mischiefs and inconveniences, and for restoring harmony and mutual good will among the citizens of the said city, and for preserving peace and good order therein: At the humble petition of the lord mayor, sheriffs, commons and citizens of the city of Dublin, be it enacted," &c.

Here are stated the mischief acknowledged, and the remedy proposed:—with this view, the statute has ascertained the constituent parts of the corporation, their respective members, their rights, and the mode of their election, with so minute and detailed an exactness, as even to enact many of those regulations which stood upon the authority of the new rules, or the ancient charters and by-laws, and in which no alteration whatsoever was intended to be made; and this it did, that the city might not be left to explore her rights by uncertain deduction from obscure or distant sources, but that she might see the whole plan in a single view, comprised within the limits of a single statute, and that so intelligibly to every common understanding, as to preclude all

possibility of doubt, and thereby all further danger of cavil or dissension.

For this purpose it enacts, "That the common council of the city of Dublin, consisting of the lord mayor and twenty-four aldermen, sitting apart by themselves as heretofore, and also of the sheriffs of the said city for the time being, and sheriffs' peers not exceeding forty-eight, and of ninety-six freemen, who are to be elected into the said common council out of the several guilds or corporations of the said city in manner hereafter mentioned, be and for ever hereafter shall be deemed and taken to be the common council of the said city and the representative body of the corporation thereof."

It then prescribes the mode of electing representatives of the several guilds and the time of their service, in which the right of the commons is exclusive and without control.

It then regulates the election of sheriffs: The commons nominate eight freemen, the mayor and aldermen elect two from that number.

Then of aldermen; The mayor and aldermen nominate four sheriffs' peers; the commons elect one of them.

And here, my lords, give me leave to observe, that this exclusive right of electing their own representatives, and this participation in the election of their magistrates, is given to the popular part of the corporation to be exercised, as all right of suffrage is exercised by the constitution of this country; that is, according to the dictates of judgment or of affection, and without any authority vested in any human tribunal, of catechising as to the motives that may operate on the mind of a free elector in the preference of one candidate or the rejection of another.

I will now state to your lordships that part of the statute which relates to the subject of this day.

"And be it enacted by the authority aforesaid, That the name of every person who shall hereafter be elected by the lord mayor and aldermen of the said city, or the usual quorum of them, to serve in the office or place of lord mayor of the said city, shall be returned by them to the commons of the common council of the said city for their approbation; without which approbation such person shall not be capable of serving in the office or place of lord mayor; and if it shall happen, that the said commons shall *reject* or disapprove of the person so returned to them, the lord

mayor and aldermen of the said city, or the usual quorum of them, shall from time to time elect another person to serve in the office or place of lord mayor of the said city, and shall from time to time return the name of the person so by them elected to the commons of the common council of the said city for their approbation, and so from time to time until the said commons shall approve of the person returned by the lord mayor and aldermen of the said city, or the usual quorum of them; provided always, that such election into the said office of lord mayor shall be of some person from among the aldermen, and that the commons shall approve of some one person so elected and returned to them for their approbation.

"And for the preventing the mischiefs and inconveniences which may arise from a failure of the corporation of the said city in the appointment of necessary officers; be it enacted by the authority aforesaid, That if either the lord mayor and aldermen, or the commons of the said city, shall omit or refuse to assemble at or within the usual times for the electing the lord mayor, aldermen, and sheriffs respectively: or being assembled shall omit or refuse to do what is hereby required to be done by them respectively, for the election and appointment of the said officers; then, and as often as the case shall happen, it shall and may be lawful for the commons in case such default shall be in the lord mayor and aldermen, or for the aldermen in case such default shall be in the commons, or for the usual quorum of them respectively, without any summons for that purpose, to assemble themselves at the tholsel of the said city on next following day, (not being Sunday,) or in case the same shall happen to be on Sunday, then on the Monday next following, and then and there to elect the said officers respectively as the case shall require; and every such election, so made, shall and is hereby declared to be valid and effectual to all intents and purposes.

"Provided always, and be it further enacted by the authority aforesaid, That every election by the said several guilds, for the constituting of their representatives in the common council of the said city, and every election made or approbation given by the commons of the said common council by virtue of this act shall be by ballot, and not otherwise.

"Provided always, that notwithstanding any thing in this act contained, no person or persons shall be enabled or made ca-

pable to serve in or execute the office or place of lord mayor or sheriff, recorder or town clerk of the said corporation, until he or they shall respectively be approved of by the lord lieutenant or other chief governor or governors and privy council of this kingdom, in such manner as hath heretofore been usual."

Under this act, at the Easter quarter assembly, held on the 16th day of April, 1790, the lord mayor and aldermen sent down the name of Mr. alderman James to the commons, who rejected him; the lord mayor and aldermen elected seven other persons, who were sent down to the commons and successively rejected; the lord mayor and aldermen then broke up their meeting without sending down the name of any other person, or conceiving that they had any right whatsoever to question the commons touching their reasons for rejecting those who had been so rejected.

The sheriffs and commons, thinking that the lord mayor and aldermen had omitted to do what was required of them by the statute to do, namely, to proceed by sending down the name of another person, and so from time to time, &c. assembled and elected Mr. alderman Howison, whom they returned for the approbation of this board.—The lord mayor and aldermen returned Mr. James also as duly elected; the claims of both parties were heard by their counsel, and this board did not think proper to approve of either candidate; the city proceeded to a new election; the name of Mr. James was again sent down, and rejected as before; a message was then sent to demand of the commons the reason of their disapprobation; they declined giving any answer, but that it was their legal right to do as they had done: Mr. James was accordingly returned as duly elected by the lord mayor and aldermen; the sheriffs and commons, as before, elected and returned Mr. Howison; the claims of the candidates were again debated before this honourable board, but nothing was decided.

A third assembly has since been held, in which the lord mayor and aldermen have acted as before, and returned Mr. James: the sheriffs and commons have elected Mr. Howison, who has petitioned for your approbation in virtue of that election.

I trust, my lords, you will think it now time to decide the question; my client calls for that decision: his opponents cannot *wish for long*er procrastination; in the progress of their preten-

sions hitherto they have found the fears, and odium, and reprobation of the public increasing upon them.

It is full time to compose the disquietude of that public:—the people do not always perceive the merits or the magnitude of a question at a single glance, but they now completely comprehend its merits and importance, they are now satisfied that every thing that can be of value to men may be lost or secured by the event of the present contest.

The claim of my clients has been impeached upon an alleged meaning of this act, and also upon certain facts stated by the learned counsel on the other side, and admitted as proved; of which facts, and the arguments upon them, I will take notice in their proper place.

As to the invective so liberally bestowed upon my fellow-citizens, it best becomes the unhired, voluntary advocate of their rights to pass them without remark.* I feel them of too high respect to be protected by panegyric or avenged by invective; I shall therefore treat those sallies of the learned gentleman's imaginations as I would the flights of their doves, they come abroad only *animo revertendi*, and ought to be suffered to return unmolested to their owners.

The right of Mr. Howison is confessed by the council for his opponents to be warranted by the letter of the law. The mayor and aldermen sent down Mr. James; he was rejected by the commons, who sent to request that another might be sent down; the board did not send down another, but demanded a reason for the rejection of Mr. James, which by the letter of the act they were certainly not warranted in doing. But it is said that by the sound construction of that law, the commons have a right to reject only for good cause, and that having refused to assign such cause, they have been guilty of a default which has transferred the sole right of election to the lord mayor and aldermen, who have accordingly elected Mr. James.

Lord Chancellor.—The question here is, "can a mere right of rejection or approbation supersede a right of election."

Mr. Curran.—If I can satisfy this board that that is not the

* Mr. Curran here alludes to certain abusive passages contained in the speech of Dr. Duigenan, who appeared before the council as advocate for alderman James and the board of aldermen.

question, I trust I shall be heard with patience as to what I conceive to be the question.

I say, my lords, that is not the question; because,

1st, The mode and the rights of election in this case turn not upon any general doctrine of the common law, but upon an express statute, which statute would never have been made, had it not been intended by the legislature to prescribe rules of direction, different from those of the common law.

2dly, The rule alluded to relates to officers in corporations, as in the case cited, who have a naked authority to admit, but can reject only for a plain defect of right in the candidate, and who, if a mandamus is directed to him requiring him to admit, must return a legal cause of his disapprobation, that the truth of the fact, or the validity of the cause may be duly tried.

But there is clearly no analogy between such an officer and the great body of the commons of this city.

1st, That officer has no elective authority whatsoever;—it is admitted that the act gives to the commons at least a concurrent elective control, and, if the mayor and aldermen "make default," an exclusive right to elect, which shall be "valid to all intents and purposes!"

2dly, That officer has a sort of judicial power, which is well placed in a single permanent individual, who is capable of, and responsible for the exercise of a judicial power;—but it would be monstrous to give a judicial power to a fluctuating multitude; for they cannot be presumed capable of exercising it, nor could they be responsible for such exercise by any course of law; for, suppose a mandamus directed to them requiring them to approve, now is it possible to make any true return to such writ? How can any man assign a cause for that rejection which the law requires to be by ballot, and consequently secret? Or, suppose a party of the commons are practised upon to return a cause, and that designedly an invalid one, how shall the residue of the commons be able to justify themselves by alleging the true and valid cause of their disapprobation?

To try it therefore by such a rule is to try it by a rule clearly having no general analogy to the subject, nor even a possible application, except so far only as it begs the question.

My lords, it is absurd to ask how a simple power of approba*tion or rejection* for cause, shall be controlled, unless it is first

determined whether the commons have that simple power only, or whether they have, what I think they clearly have under the statute, a peremptory right of approving or rejecting without any control whatsoever.

If they have but a simple right to reject for cause, and ought to have assigned such cause under the law, they have been guilty of a default, and the sole right to elect devolves to the board of aldermen, who, of course, have duly elected. If they are not bound to assign such a reason, manifestly the aldermen have acted against law, and by their default have lost this power, and the commons have duly elected Mr. Howison.

Now, my lords, in examining this question, you must proceed by the ordinary rule of construction, applicable alike to every statute; that of expounding it by the usual acceptation and natural context of the words in which it is conceived.—Do the words then, my lords, or the natural context of this act, describe a limited power of rejecting only for cause to be assigned, or a peremptory power of rejecting without any such cause?—Says the act, "If it shall happen that the commons shall reject or disapprove:" The law describes this accidental rejection in language most clearly applicable to the acts of men assembled, not as judges, but as electors, not to judge by laws which they have never learned, but to indulge their affections, or their caprice; and therefore justly speaks of a rejection, not the result of judgment but of chance.

"If it shall happen that they shall *reject* or *disapprove*:" my lords, you cannot say these words are synonymous; in acts every word must have its meaning if possible; "To *reject*," contradistinguished to "*disapprove*," is to reject by an act of the will; to disapprove, supposes some act of the judgment also.

The act then clearly gives a right of rejecting, distinct from disapprobation, which by no possibility can be other than a peremptory right without limit or control.

But here, if a reason must be had, the law would naturally prescribe some mode of having it demanded:—this, however, unluckily cannot be done without a direct violation of the act, which enjoins, that the two bodies shall "sit apart, by themselves as heretofore;" but at least it might have left the board of aldermen the means of making a silent struggle for the approbation of their favourite candidate, by sending him down again for re-

consideration. But, on the contrary, the law is express, that "if the commons shall happen to reject or disapprove the first," they must then proceed to send down the name, not of *him*, but of *another*, and so on.—How long my lords? Until a good reason shall be assigned for the rejection of the first? No, my lords, it is "until the commons shall approve of *some one person*, so sent down;" and to this right of rejection, which the law has supposed might happen so often, the law has opposed the limit of a single proviso only, applicable enough to a peremptory right of rejection, but singular indeed, if applied to rejection for cause; "Provided always, that such election into the said office of lord mayor, shall be of some person from among the aldermen, and that the commons shall approve of some one person so elected and returned to them for their approbation."—A rejection without cause to be assigned, being a mere popular privilege, may be limited in its extent by reasons of expediency; but a judicial power of rejecting for legal cause cannot be so controlled without the grossest absurdity. It is like a peremptory challenge, which is given to a prisoner by the indulgence of the law, and may be therefore restricted within reasonable bounds. But a challenge for cause is given of common right, and must be allowed as often as it shall be found to exist, even though the criminal should remain for ever untried, and the crime for ever unpunished.

Permit me now, my lords, to try this construction contended for by another test. Let us put it into the form of a proviso, and see how it accords with the proviso, which you find actually expressed: "Provided always, that the commons shall be obliged to approve of the first person whose name shall be sent down to them, unless they shall assign good legal cause for their rejection." The proviso expressed is, "Provided that they shall approve, not of the first person, but of some one person so elected." Can any thing be more obvious than the inconsistency of two such provisoes?

Give me leave, my lords, to compare this supposed proviso with the enacting part of the statute. It says, that if the first person sent down be rejected, the lord mayor and aldermen shall "then proceed to elect another and send down his name;" but if this supposed proviso were to make a part of the act, they would *not* be obliged to send down "another name," but would be au-

thorized to insist upon the claim of the first candidate, by demanding a reason for his rejection. This supposed proviso, therefore, and of course this superinduced construction, is directly incompatible both with the body and the proviso of the statute itself.

But see further, my lords, what you do by such a construction; you declare that the benefit of this statute, which is given expressly to the commons, is given upon a tacit condition, by the breach of which that benefit is utterly forfeited. Do you think, my lords, you shall act consistently with the spirit of the constitution, or of the law of Ireland, if you declare and enforce a cause of forfeiture written in no law whatsoever, and devised only by your own interpretation? or do you not feel, my lords, to what a wretched state of servitude the subject is reduced, if criminality and forfeiture are to depend, not on the plain and permanent meaning of the law, but upon the dreams and visions of capricious interpretators? If a constructive cause of forfeiture can be warranted, by which any part, or any individual, of a corporation shall be adjudged to have lost their franchise; by the same principle may a constructive offence and forfeiture be devised, by which a whole corporation shall be stripped of its charter. Says the law, "If they shall omit or refuse to do what they are required to do by this act," they lose the benefit thereof: but this curious construction would declare, that the commons have forfeited the benefit of the statute, by refusing to do that, which they are not required by this or any other act to do.

If then, my lords, you call this power of rejection or disapprobation, a power to be regulated by technical maxims of the common law, and to be exerted only for legal cause to be assigned; what is it but to give the law a meaning which the legislature never spoke? what is it but to nullify a statute made for the benefit of the people, by an arbitrary construction, supported only by the most pitiful of all argumentative fallacies, an assumption of what cannot be proved; or, to describe it in terms more suited to its demerit, that mixture of logical poverty, and ethical meanness, which stoops to beg what it has not industry to acquire, nor craftiness to steal, nor force to extort.

But see, my lords, whether this infallible rule of the common law, upon which the whole merits of this case have been rested,

will not if admitted, be subversive of the authority which it would seem to support.

By one of the new rules, and by a clause in this act of parliament, no person can serve as mayor without the approbation of this board. This power of approving was notoriously given for the security of the government; and hath now for upwards of a century been exercised upon no other ground whatever. By a clause in this act, no person can serve as mayor without the approbation of the commons, and this right of approbation, as notoriously, was given to increase the power of the people; and the commons have accordingly so exercised it uniformly for thirty years; it is observable that this right of approbation is given to them in language more emphatical than it is to your lordships, but for argument sake I will suppose the words the same: now if by the common law, all right of approving or rejecting can be founded only upon legal cause to be assigned, what becomes of your lordships' decision? You have already refused your approbation to the two present petitioners, having both exactly the same pretensions to your approbation which they have at present: you have refused your approbation, and you have assigned no cause: but let me ask a much more material question, what in that case becomes of your lordships' power? The same words in the same act of parliament cannot have two different constructions: If the commons are bound to assign a legal cause for rejection, you, my lords, must be similarly bound; and the law will then coerce the commons, and coerce your lordships in a manner directly contrary to the intention of the act; it will then cease to be a law for the protection of liberty on the one hand, or the security of government on the other; for, being equally confined to a rejection for legal cause, the commons may be obliged to approve a candidate, not legally disqualified, though an enemy to their liberty, and your lordships be restrained from rejecting a candidate, not legally disqualified, though an enemy to the state. See then, my lords, to what you will be reduced: you must either admit, that the statute has confined you both equally to decide upon the mere question of legal capacity or incapacity only, of which they are clearly incapable of judging, and on which it is here admitted you are incompetent to decide, and has thus elevated them and degraded your lordships from good *citizens* and wise statesmen into bad judges; or if, in opposition

to this construction, you do your duty to your sovereign, and refuse to admit to the magistracy a man whom you have a good reason to believe disaffected to the state, though subject to no legal incapacity; what do you do, my lords? You give two different expositions to the same words in the same act of parliament; that is, an enlarged exposition in favour of yourselves, and a confined one against the people; that is in fact you are driven to incur the odium of repealing the law as against the crown, and enforcing it against the subject.* See on the other hand, my lords, how by the plain and hitherto adopted construction, all these mischiefs are avoided. You judge of the candidate with respect to his loyalty, the commons with regard to his integrity and independence; neither of you with any relation to his legal capacity or incapacity; thus will every object of the law, of the people, and of the government be completely obtained, the commons will enjoy their power in deciding upon the popularity of the candidate for magistracy, you will do your duty in deciding upon his loyalty, and the courts of justice will retain their natural exclusive jurisdiction in every question that can touch his legal qualification; thus will it be impossible for any man to have the power of the city in his hands, who is not free from all legal objections, and who is not also deserving the confidence of his sovereign, as well as of his fellow-subjects.

Thus far, my lords, have I examined this law, with respect to the present question, by the general rule of construction, applicable generally to all statutes, that is, of seeking for the meaning of the legislature in the ordinary and natural context of the words they have thought proper to adopt; and this, I thought, I might do with still more confidence in a law, professedly made for the direction of men unacquainted with legal difficulty, unversed in the subtilty of legal distinction, and acting in a situation which precludes them from the advantage of all legal assistance; but I feel that what hath been satisfactory to my mind, hath not been so to some of your lordships. I feel myself, therefore, obliged to enter upon a more minute examination of this statute, upon principles and circumstances peculiar to itself.

* This would really be the case, supposing the act of parliament had confined the right of the privy council to disapprove, and that of the common council to reject, to the legal cause of incapacity, and the privy council claimed for itself an unqualified power of disapproving, while it denied to the common council a similar power of rejecting.

I am sorry, my lords, to trespass upon your patience; but I am speaking upon a subject, in which if I do not succeed, the people of this country will have lost what is of infinitely more value than any time, however precious, that may be wasted in their defence.

This act, my lords, professes to be a remedial act, and as such must be construed according to the rules peculiar to remedial laws: that is in three points of view; first, the former state of the law; secondly, the mischief of such former state; and thirdly, the remedy proposed for the cure of that mischief.

As to the first point: at the time of this statute the lord mayor and aldermen exercised the exclusive power of election to the chief magistracy, without any interference of the commons. The immediate mischief of such a constitution, with respect to the metropolis itself, I have touched upon before; the people were borne down; the magistracy was depraved; the law was relaxed, and the public tranquillity at an end. These mischiefs were more than enough to induce the citizens of Dublin to call loudly, as they did, upon the justice of the legislature for parliamentary redress. But the wisdom of that legislature formed an estimate of the mischief from considerations that probably did not enter into the minds of the contending parties; namely from the then state of Ireland as an individual, and as a connected country; as an individual depressed in every thing essential to the support of political or civil independency; depressed in commerce, in opulence, and in knowledge; distracted by that civil and religious discord, suggested by ignorance and bigotry, and inflamed by the artifice of a cruel policy, which divided in order to destroy, conscious that liberty could be banished only by disunion, and that a generous nation could not be completely stripped of her rights, until one part of the people was deluded into the foolish and wicked idea that its freedom and consequence could be preserved or supported only by the slavery or depression of the other. In such a country it was peculiarly necessary to establish at least some few incorporated bodies, which might serve as great repositories of popular strength: our ancestors learned from Great Britain to understand their use and their importance; in that country they had been noarded up with the wisest forecast, and preserved with a religious reverence, as an unfailing resource against those times of

storm, in which it is the will of Providence that all human affairs should sometimes fluctuate; and as such, they had been found at once a protection to the people and a security to the crown.—My lords, it is by the salutary repulsion of popular privilege that the power of the monarchy is supported in its sphere; withdraw that support and it falls in ruin upon the people, but it falls in a ruin no less fatal to itself, by which it is shivered to pieces.

Our ancestors must therefore have been sensible that the enslaved state of the corporation of the metropolis was a mischief that extended its effects to the remotest borders of the island.—In the confederated strength, and the united councils of great cities, the freedom of the country may find a safeguard which extends itself even to the remote inhabitant who never put his foot within their gates.

But, my lords, how must these considerations have been enforced by a view of Ireland, as a connected country, deprived as it was of almost all the advantages of an hereditary monarch: the father of his people residing at a distance, and the paternal beam reflected upon his children through such a variety of *mediums*, sometimes too languidly to warm them, sometimes so intensely as to consume; a succession of governors differing from one another in their tempers, in their talents, and in their virtues, and of course in their systems of administration; unprepared in general for rule by any previous institution, and utterly unacquainted with the people they were to govern, and with the men through whose agency they were to act. Sometimes, my lords, 'tis true, a rare individual has appeared among us, as if sent by the bounty of Providence in compassion to human miseries, marked by that dignified simplicity of manly character, which is the mingled result of an enlightened understanding, and an elevated integrity; commanding a respect that he laboured not to inspire; and attracting a confidence which it was impossible he could betray.* It is but eight years, my lords, since we have seen such a man amongst us, raising a degraded country from the condition of a province to the rank and consequence of a people, worthy to be the ally of a mighty empire, forming the league that bound her to Great Britain, on the firm and honour-

* The duke of Portland, under whose administration Ireland obtained a free constitution.

able basis of equal liberty and a common fate, "standing and falling with the British empire;" and thus stipulating for that freedom which alone contains the principle of her political life, in the covenant of her federal connection. But how short is the continuance of those auspicious gleams of public sunshine! how soon are they passed, and perhaps for ever! In what rapid and fatal revolution has Ireland seen the talents and the virtues of such men give place to a succession of sordid parade, and empty pretension, of bloated promise, and lank performance, of austere hypocrisy and peculating economy!* Hence it is, my lords, that the administration of Ireland so often presents to the reader of her history, not the view of a legitimate government, but rather of an encampment in the country of a barbarous enemy: where the object of the invader is not government but conquest; where he is of course obliged to resort to the corrupting of clans, or of single individuals, pointed out to his notice by public abhorrence, and recommended to his confidence only by a treachery so rank and consummate, as precludes all possibility of their return to private virtue or to public reliance, and therefore only put into authority over a wretched country, condemned to the torture of all that petulant unfeeling asperity, with which a narrow and malignant mind will bristle in unmerited elevation; condemned to be betrayed, and disgraced, and exhausted by the little traitors that have been suffered to nestle and to grow within it, making it at once the source of their grandeur, and the victim of their vices, reducing it to the melancholy necessity of supporting their consequence, and of sinking under their crimes, like the lion perishing by the poison of a reptile that finds shelter in the mane of the noble animal, while it is stinging him to death.

By such considerations as these, my lords, might the makers of this statute have estimated the danger to which the liberty of Ireland was exposed; and of course the mischief of having

* The duke of Rutland and marquis of Buckingham quickly followed his grace. The first was marked by a love of dissipation, and undignified extravagance. The Marquis, upon his arrival in Ireland, led the country to expect a general retrenchment in the public expenses. This expectation was terminated by the creation of fourteen new places for the purpose of parliamentary influence, countervailed indeed by a curtailment of the fuel allowed to the old soldiers of the royal hospital by the public bounty, and by abortive speculations upon the practicability of making one pair of boots *serve for two troopers.*

that metropolis enslaved, by whose independency alone those dangers might be averted. But in this estimate they had much more than theory, or the observation of foreign events to shôw them, that the rights of the sovereign and of the subject were equally embarked in a common fate with that independency. When in the latter part of the reign of queen Anne, an infernal conspiracy was formed by the then chancellor, (Sir Constantine Phipps,) and the privy council, to defeat that happy succession which for three generations hath shed its auspicious influence upon these realms, they commenced their diabolical project with an attack upon the corporate rights of the citizens of Dublin, by an attempt to impose a disaffected lord mayor upon them contrary to the law. Fortunately, my lords, this wicked conspiracy was defeated by the virtue of the people; I will read to your lordships the resolutions of a committee of the house of commons on the subject.

"First, resolved, that it is the opinion of this committee, that soon after the arrival of Sir Constantine Phipps, late lord chancellor, and one of the lords justices in this kingdom, in the year 1710, a design was formed and carried on to subvert the constitution and freedom of elections of magistrates of corporations within the new rules, in order to procure persons to be returned for members of parliament, disaffected to the settlement of the crown, or his majesty and his royal issue."

"2d. Resolved, that it is the opinion of this committee, that, in pursuance of that design, indirect and illegal methods were taken to subvert the ancient and legal course of electing magistrates in the city of Dublin.

"3d. Resolved, that it is the opinion of this committee, that the said Sir Constantine Phipps, and those engaged in that evil design, in less than five months, in the year 1711, procured six aldermen duly elected lord mayors, and fourteen substantial citizens duly elected sheriffs, and well known to be zealously affected to the protestant succession, and members of the established church, to be disapproved, on the pretence that alderman Robert Constantine, as senior alderman, who had not been mayor, had a right to be elected lord mayor.

"4th. Resolved, that it is the opinion of this committee, that the senior alderman, who had not served as mayor, had not any

right by charter, usage, or by law, in force in the city of Dublin, as such, to be elected lord mayor.

"5th. Resolved that it is the opinion of this committee, that the said Sir Constantine Phipps, and his accomplices, being unable to support the pretended right of seniority, did, in the year 1713, set up a pretended custom or usage for the mayor, in being, to nominate three persons to be in election for lord mayor, one of whom the aldermen were obliged to choose lord mayor."

Lord Chancellor.—Can you think, Mr. Curran, that these resolutions of a committee of the house of commons can have any relation whatsoever to the present subject?

Mr. Curran.—I hope, my lords, you will think they have much relation indeed to the subject before you. The weakness of the city was the mischief which occasioned the act of parliament in question; to give the city strength, was the remedy. You must construe the law so as to suppress the former, and advance the latter. What topics then, my lords, can bear so directly upon the point of your inquiry, as the perils to be apprehended, from that weakness, and the advantages to be derived from that strength? What argument then can be so apposite, as that which is founded on undeniable facts? Or what authority so cogent as the opinion of the representative wisdom of the nation, pronounced upon those facts, and transmitted to posterity upon record. On grounds like those, for I can conceive no other, do I suppose, the rights of the city were defended in the time to which I have alluded; for it appears by the records which I have read, that the city was then heard by her counsel; she was not denied the form of defence, though she was denied the benefit of the law. In this very chamber did the chancellor and judges sit, with all the gravity and affected attention to arguments in favour of that liberty and those rights which they had conspired to destroy. But to what end, my lords, offer argument to such men? A little and a peevish mind may be exasperated, but how shall it be corrected by refutation? How fruitless would it have been to represent to that wretched chancellor, that he was betraying those rights which he was sworn to maintain, that he was involving a government in disgrace; and a kingdom in panic and consternation; that he was violating every sacred duty, and every solemn engagement that bound him to himself, his country his sovereign, and his God!—Alas, my lords, by what argument could

any man hope to reclaim or to dissuade a mean, illiberal, and unprincipled minion of authority, induced by his profligacy to undertake, and bound by his avarice and vanity to persevere? He would probably have replied to the most unanswerable arguments, by some contumelious and unmeaning apophthegm, delivered with the fretful smile of irritated self-sufficiency and disconcerted arrogance; or, even if he could be dragged by his fears to a consideration of the question, by what miracle could the pigmy capacity of a stunted pedant be enlarged to a reception of the subject? The endeavour to approach it would have only removed him to a greater distance than he was before: as a little hand that strives to grasp a mighty globe is thrown back by the re-action of its own effort to comprehend.—It may be given to a Hale, or a Hardwicke, to discover and retract a mistake; the errors of such men are only specks that arise for a moment upon the surface of a splendid luminary; consumed by its heat, or irradiated by its light, they soon purge and disappear; but the perverseness of a mean and narrow intellect, are like the excrescences that grow upon a body naturally cold and dark: no fire to waste them, and no ray to enlighten, they assimilate and coalesce with those qualities so congenial to their nature, and acquire an incorrigible permanency in the union with kindred frost and kindred opacity. Nor indeed, my lords, except where the interest of millions can be affected by the folly or vice of an individual, need it be much regretted, that, to things not worthy of being made better, it hath not pleased providence to afford the privilege of improvement.

Lord Chancellor.—Surely, Mr. Curran, a gentleman of your eminence in your profession must see that the conduct of former privy councils has nothing to do with the question before us The question lies in the narrowest compass; it is merely whether the commons have a right of arbitrary and capricious rejection, or are obliged to assign a reasonable cause for their disapprobation. To that point you have a right to be heard; but I hope you do not mean to lecture the council.*

Mr. Curran.—I mean, my lords, to speak to the case of my cli-

* From the frequent interruptions experienced by Mr. Curran in this part of his speech, it would appear that lord Clare perceived that the description of Sir Constantine Phipps was intended for himself. Those who best knew his lordship can judge of the justness of the representation.

ents, and to avail myself of every topic of defence which I conceive applicable to that case. I am not speaking to a dry point of law, to a single judge, and on a mere forensic subject; I am addressing a very large auditory, consisting of co-ordinate members, of whom the far greater number are not versed in law: were I to address such an audience on the interests and rights of a great city, and address them in the hackneyed style of a pleader, I should make a very idle display of profession, with very little information to those I address, or benefit to those on whose behalf I have the honour to be heard. I am aware, my lords, that truth is to be sought only by slow and painful progress; I know also that error is in its nature flippant and compendious; it hops with airy and fastidious levity over proofs and arguments, and perches upon assertion, which it calls conclusion.

Here the lord chancellor moved to have the chamber cleared; after some time the doors were opened.*

My lords, I was regretting the necessity which I am under of trespassing so much on that indulgent patience with which I feel I am so honoured; let me not, however, my lords, be thought so vainly presumptuous as to suppose that condescension bestowed merely upon me; I feel how much more you owe it to your own dignity and justice, and to a full conviction that you could not be sure of deciding with justice, if you did not hear with temper.

As to my part, my lords, I am aware that no man can convince by arguments which he cannot clearly comprehend, and make clearly intelligible to others; I consider it therefore, not only an honour, but an advantage, to be stopped when I am not understood. So much confidence have I in the justice of my cause, that I wish any noble lord in this assembly would go with me step by step through the argument; one good effect would inevitably result; I should either have the honour of convincing the noble lord, or the public would, by my refutation, be satisfied that they are in the wrong: with this wish, and, if I may presume to say so, with this hope, I will proceed to a further examination of the subject.

It is a rule of law, that all remedial acts shall be so construed as to suppress the mischief, and advance the remedy; now a good

* During the exclusion of strangers, it was understood that lord Clare moved the council, that Mr. Curran should be restrained by their lordships' authority from proceeding farther in that line of argument he was then pursuing; but his lordship *being over-ruled*, Mr. Curran proceeded.

cause of rejection can mean only a legal cause; that is, a cause working an incapacity in the person executing a corporate franchise; that is, of course, such a cause as would justify a judgment of ouster against him by a court of law, if actually in possession of such franchise; or warrant his removal, by an act of the corporation itself. There are three sorts of offences for which a corporator may be amoved; first, such as have no immediate relation to his office, but are in themselves of so infamous a nature as to render the offender unfit to exercise any public franchise; secondly, such as are *only* against his oath, and the duty of his office as a corporator, and amount to a breach of the tacit condition annexed to his franchise or office; the third sort of offence for which an officer or corporator may be displaced is of a mixed nature, as being an offence, not only against the duty of his office, but also a matter indictable at common law.

For the first species of offences, a corporation can in no case amove without a previous indictment and conviction in a court of common law. For the other offences, it has a power of trial, as well as a motion.

To this let me add, that the office of alderman is as much a corporate office as that of lord mayor, and the legal cause that disqualifies the one must equally disqualify the other; but the person chosen to be mayor must be an alderman at the time of his election, and the law, of course, cannot suppose a man, actually in possession of a corporate franchise, to labour under any corporate or legal incapacity: does it not then, my lords, follow irresistibly, that the law cannot intend to confine the power of rejection, which it expressly gives, to a legal incapacity, which, without the grossest absurdity, it cannot suppose to exist?

But let us assume, for argument sake, however in defiance of common sense, that the legislature did suppose it possible, that such an incapacity might exist; what new privilege does a power of rejection for such cause give to the commons? And it is admitted by the learned counsel, "that this statute made a great enlargement, indeed, in their powers." Before the act was made, any corporator, subject to a personal disqualification, was removeable by the ordinary course of law; to give the commons, therefore, only a power of preventing a man, legally disqualified, from serving a corporate office, was giving them nothing which they had not before.

What sort of construction, then, my lords, must that be which makes the legislature fall into the ridiculous absurdity of giving a most superfluous remedy for a most improbable mischief? And yet it is not in a nursery for children, nor a bedlam of madmen; but it is in an assembly, the most august that this country knows of, that I am obliged to combat this perversion of sense and of law. In truth, my lords, I feel the degradation of gravely opposing a wild chimera, that could not find a moment's admission into any instructed or instituted mind; but I feel also, that they who stoop to entertain it only from the necessity of exposing and subduing it, cannot at least be the first object of that degradation.

Let me then, my lords, try this construction contended for, by another test. If the act must be construed so as to say that the commons can reject only for a legal cause to be assigned, it must be so construed, as to provide for all that is inseparably incident, and indispensably necessary to carrying that construction into effect: that is, it must provide a mode, in which four things may be done:

First, a mode in which such cause shall be assigned.

Secondly, a mode in which the truth of the fact of such cause shall be admitted or controverted.

Thirdly, a mode by which the truth of such fact, if controverted, shall be tried; and,

Fourthly, a mode by which the validity of such cause, when ascertained in fact, shall be judged of in law. To suppose a construction requiring a reason to be assigned, without providing for these inevitable events, would be not the error of a lawyer, but would sink beneath the imbecility of an infant.

Then, my lords, as to the first point: how is the cause to be assigned? The law expressly precludes the parties from any means of conference by enacting that they shall "sit apart and by themselves." The same law says, that "the rejection or disapprobation shall be by ballot only, and not otherwise." Now when the law gives the commons a power of rejecting by ballot, it gives each individual a protection against the enmity which he would incur from the rejected candidate; but if you say that the rejection shall be null and void, unless fortified by the assignment of legal cause, see, my lords, what you labour to effect: under this supposed construction, you call upon the voters who *reject by* a secret vote, to relinquish that protection of secrecy,

which the law expressly gives them; unless, my lords, the sagacity, that has broached this construction can find out some way, by which the voter can justify why he voted against a particular candidate, without disclosing also, that he did in fact vote against that candidate.

Let me, however, suppose that inconsistency reconciled, and follow the idea.

The name of alderman James is sent down, and the commons certify his rejection; an ambassador is then sent to demand of the commons the cause of this rejection.—They answer, "Sir, we have rejected by ballot, and they who have voted against him are protected by the law from discovering how they voted." To which the ambassador replies, "very true, gentlemen, but you mistake their worships' question; they do not desire you to say who rejected Mr. James, for in that they well know they could not be warranted by law; they only desire to know why a majority has voted against Mr. alderman James.—This, my lords, I must suppose to be a mode of argument not unbecoming the sagacity of aldermen, since I find that it gives occasion to a serious question before so exalted an assembly as I have now the honour to address; I will, therefore, suppose it conclusive with the commons; a legal reason must be assigned for their rejection.—Pray, my lords, who is to assign that legal reason? Is it the minority who voted for the rejected candidate? I should suppose not. It must be then the majority who voted for the rejection.—Pray, my lords, who are they? By what means shall they be discovered?

But I will suppose that every member of the commons is willing to adopt the rejection, and to assign a cause for it. One man, suppose a friend of the rejected candidate, alleges a cause of a rejection in which he did not in reality concur, and which cause he takes care shall be invalid and absurd; as for instance, the plumpness of the person of Mr. James;* if he did not vote for the rejection, he can have no right to assign a cause for it; the question then is, did he vote for the rejection? I beg leave, my lords, to know how that is to be tried?

But suppose, to get rid of a difficulty, otherwise insurmountable,

* The person of the alderman is of the full regulation dimensions. He might well say of himself, with relation to his brother justices, "Quorum pars magna fui."

it shall be agreed in direct contradiction to common sense and justice, that every member of the commons shall be authorized to assign a legal cause of rejection; (and in truth if he may assign one, he may assign more than one, if he is disposed to do so;) suppose then, my lords, that one hundred and forty-six causes are assigned, for such may be their number, though no one member assigns more than a single cause; if they may be all assigned, they must be all disposed of according to law; but which shall be first put into a course of trial? How shall the right of precedence be divided? But I will suppose that also settled, and a single cause is assigned; that cause must be a legal disability of some of the kinds which I have already mentioned; for there cannot be any other. The cause then assigned, in order to prevail, must be true in fact and valid in law, and amount to a legal incapacity. And here, let me observe, that a legal cause of incapacity, as it can be founded only on the commission of an infamous crime, or of some fact contrary to the duty and oath of a corporator, must, if allowed, imprint an indelible stigma on the reputation of the man so rejected. I ask, then, is the accusation of malignity, or credulity, or folly to be taken for true? Or shall the person have an opportunity of defending himself against the charge? The cause for which he can be rejected is the same with the cause for which he can be disfranchised; they are equally causes working an incapacity to hold a corporate franchise; their consequences are the same to the person accused; loss of franchise, and loss of reputation. The person accused therefore, if by the construction of a statute he is exposed to accusation, must by the same construction be entitled to every advantage in point of defence, to which a person so accused is entitled by the general law of the land. What, then, are those advantages to which a corporator is entitled, when charged with any fact as a foundation for incapacity or disfranchisement? He must have due and timely notice of the charge, that he may prepare for his defence; every corporator must have timely and express notice of the specific charge against him, that nothing may be done by surprise on either side. Now, my lords, you will condescend to observe, that the time supposed by this statute for the whole business of election is a single day; is it then possible to give every member of the board of aldermen, for each of them may be a candidate, due notice of every charge *of legal disability* that may be possibly made against them? Or

if it be not, as it manifestly is not, will you, my lords, create a construction which exposes any subject of the land to trial without notice, and to conviction and forfeiture without that opportunity of defence to which he is entitled of natural justice and common right?

But I will suppose that your lordships may adopt this construction, however it may supersede the right of the subject and the law of the land; I will suppose that the candidate may be accused at a moment's warning.—Is bare accusation to hold the place of conviction? Shall the alderman, whose name is sent down, and who is rejected for an alleged personal disability, have an opportunity of defending himself against the charge of the commons? He cannot have the privilege of the meanest felon, of standing before his accusers; for, as an alderman, he must remain with his brethren, "separate and apart by themselves. He cannot then plead for himself in person, nor by the law can he depute an attorney to defend in his name, for the commons are not authorised to admit any strangers amongst them. It is therefore utterly out of his power to deny the charge against him however false in fact it may happen to be.

But I will suppose, if you please, that the charge is denied, and issue joined upon the fact; I beg leave to ask, if this supposed construction provides any mode of calling the jury, or summoning the witnesses, on whose testimony, and on whose verdict a citizen is to be tried upon a charge of corporate or legal culpability? But let me, my lords, with the profoundest respect, press this wicked and silly nonsense a little farther: suppose the charge admitted in fact, but the validity of it denied; who, my lords, is to judge of it by virtue of this construction? A point of law is to be decided between the lord mayor and aldermen who have chosen, and the commons who have rejected. What is the consequence? If the lord mayor and aldermen decide, they judge in their own cause; if the commons decide, they judge in their own cause, contrary to the maxim "*Nemo judex in propria causa;*" can you then, my lords, think yourselves warranted in adopting a construction, which supposes a legal charge to be made, in which the accused has not the advantage of notice, or the means of defence, or of legal trial, and on which, if any judgment be pronounced, it must be pronounced by the parties in the cause, in direct opposition to the law of the land.

But, my lords, it seems all these defects in point of accusation, of defence, of trial, and of judgment, as the ingenious gentlemen have argued, are cured by the magical virtue of those beans, by whose agency the whole business must be conducted.

If the law had permitted a single word to be exchanged between the parties, the learned counsel confess that much difficulty might arise in the events which I have stated; but they have found out that all these difficulties are prevented or removed by beans and the ballot. According to these gentlemen, we are to suppose one of those unshaven demagogues, whom the learned counsel have so humorously described, rising in the commons when the name of alderman James is sent down; he begins by throwing out a torrent of seditious invective against the servile profligacy and liquorish venality of the board of aldermen—this he does by beans!—Having thus previously inflamed the passions of his fellows, and somewhat exhausted his own, his judgment collects the reins that floated on the neck of his imagination, and he becomes grave, compressed, sententious, and didactic; he lays down the law of personal disability, and corporate criminality, and corporate forfeiture, with great precision, with sound emphasis and good discretion, to the great delight and edification of the assembly—and this he does by beans!—He then proceeds, my lords, to state the specific charge against the unfortunate candidate for approbation, with all the artifice and malignity of accusation, scalding the culprit in tears of affected pity, bringing forward the blackness of imputed guilt through the varnish of simulated commiseration; bewailing the horror of his crime, that he may leave it without excuse; and invoking the sympathy of his judges, that he may steel them against compassion—and this, my lords, the unshaven demagogue doth by beans!—The accused doth not appear in person, for he cannot leave his companions. nor by attorney, for his attorney could not be admitted—but he appears and defends by beans! At first, humble and deprecatory, he conciliates the attention of his judges to his defence, by giving them to hope that it may be without effect; he does not alarm them by any indiscreet assertion that the charge is false; but he slides upon them arguments to show it improbable; by degrees, however, he gains upon the assembly, and denies and refutes, and recriminates and retorts—*all by* beans,—until at last he challenges his accuser to a trial,

which is accordingly had, in the course of which the depositions are taken, the facts tried, the legal doubts proposed and explained—by beans!—and in the same manner the law is settled with an exactness and authority that remains a record of jurisprudence, for the information of future ages; while at the same time the "harmony" of the metropolis is attuned by the marvellous temperament of jarring discord; and the "good will" of the citizens is secured by the indissoluble bond of mutual crimination, and reciprocal abhorrence.

By this happy mode of decision, one hundred and forty-six causes of rejection (for of so many do the commons consist, each of whom must be entitled to a distinct cause) are tried in the course of a single day with satisfaction to all parties.

With what surprise and delight must the heart of the fortunate inventor have glowed, when he discovered those wonderful instruments of wisdom and of eloquence, which, without being obliged to commit the precious extracts of science, or persuasion, to the faithless and fragile vehicles of words or phrases, can serve every process of composition or abstraction of ideas, and every exigency of discourse or argumentation, by the resistless strength and infinite variety of beans, white or black, or boiled, or raw; displaying all the magic of their powers in the mysterious exertions of dumb investigation, and mute discussion; of speechless objection and tongue-tied refutation!

Nor should it be forgotten, my lords, that this noble discovery does no little honour to the sagacity of the present age, by explaining a doubt that has for so many centuries perplexed the labour of philosophic inquiry; and furnishing the true reason why the pupils of Pythagoras were prohibited the use of beans: it cannot, I think, my lords, be doubted, that the great author of the metempsychosis found out that those mystic powers of persuasion, which vulgar naturalists supposed to remain lodged in minerals, or fossils, had really transmigrated into beans; and he could not therefore but see, that it would have been fruitless to preclude his disciples from mere oral babbling, unless he had also debarred them from the indulgence of vegetable loquacity.

My lords, I have hitherto endeavoured to show, and I hope not without success, that this act of parliament gives to the commons a peremptory right of rejection; that the other construction gives no remedy whatsoever for the mischief which occasioned its being

passed; and cannot by any possible course of proceeding be carried into effect. I will take the liberty now of giving an answer to some objections relied upon by the counsel for Mr. James, and I will do it with a conciseness, not, I trust, disproportioned to their importance.

They say that a peremptory rejection in the commons takes away all power whatsoever from the board of aldermen: to that I answer, that the fact and the principle is equally against them: the fact, because that board is the only body from which a lord mayor can be chosen; and has, therefore, the very great power that results from exclusive eligibility; the principle, because if the argument be, that the lord mayor and aldermen ought to have some power in such election, by a parity of reason, so ought the commons, who, if they can reject only for a legal incapacity, will be ousted of all authority whatsoever in such election, and be reduced to a state of disfranchisement by such a construction.

The gentlemen say, that your lordships can only inquire into the *prima facie* title, and that the claim of Mr. James is, *prima facie*, the better claim.

I admit, my lords, you are not competent to pronounce any judgment that can bind the right. But give me leave to observe, first, that the question, upon which you yourselves have put this inquiry, is a question applicable only to the very right, and by no possibility applicable to a *prima facie* title.

One of your lordships has declared the question to be, "Whether by the common law, a mere power of approbation or rejection can supersede a power of election?" If that question is warranted in assuming the fact, give me leave to say, that the answer to it goes directly to the right, and to nothing else; for if the commons are bound by law to assign a cause of rejection, and have not done so, Mr. James had clearly the legal right of election, and Mr. Howison has no right or title whatsoever.

But I say further; The mode of your inquiry makes it ridiculous to argue, that you have not entered into any disquisition of the right: Why, my lords, examine witnesses on both sides? Why examine the books of the corporation? Why examine into every fact relating to the election?

I cannot suppose, my lords, that you inquired into facts, upon which you thought yourselves incompetent to form any decision;

I cannot suppose you to admit an extra judicial inquiry, by which the members of a corporation may be drawn into admissions that may expose them to the future danger of prosecution or disfranchisement.

I hope, my lords, I shall not be deemed so presumptuous, as to take upon me to say, why you have gone into these examinations: it is not my province to justify your lordships' proceedings: it stands upon your own authority; I am only answering an argument, and I answer it by showing it inconsistent with that proceeding.

Let me, my lords, pursue the idea a little further. Are you only inquiring into a *prima facie* title? What is a *prima facie* title? I conceive it to be a title, not which may possibly be found a good one upon future examination; but, which is good and valid, and must prevail, unless it be opposed and defeated by another, which may possibly be adduced, but which does not then appear. So in an ejectment at law, for instance, a plaintiff must make a title, or he is non-suited. If he makes out a legal title *in omnibus*, the court declares it a *prima facie* title; that is, a title conclusive as to the right, unless a better shall be shown, and accordingly calls on the defendant to show such better title if he can; the moment the defendant produces his title, the question of *prima facie* title is completely at an end; and the court has no longer any question to decide upon, but the very merits; and this for a plain reason: The question, whether *prima facie* a good title or not, is decided upon the single ground that no other title then appears with which the title shown can be compared; in short, my lords, whether *prima facie* good, is a question confined only to the case of a single title, and cannot be applied, without the grossest absurdity, to a case where you have both the titles actually before you. It may be the question in case of a single return; in case of a double return, as here, it cannot by any possibility be the question.

But, my lords, let me carry this a little further yet. You have both the titles before you.—You have yourselves declared, that the question turns upon the construction of this act of parliament, which enacts also, "That it shall be deemed a public act, in all courts, and in all places."

Now is it contended, the construction of the act is *prima facie* in favour of Mr. James?

May I presume to ask, what does the *prima facie* construction of a statute import? It must import, if it import any thing, that meaning which, for aught then appearing, is true; but may possibly, because of something not then appearing, turn out not to be so. Now, nothing can possibly be opposed to that *prima facie* construction save the act itself. A *prima facie* construction of a statute, therefore, can be nothing but the opinion that rises in the mind of a man, upon a single reading of it, who does not choose to be at the trouble of reading it again. In truth, my lords, I should not have thought it necessary to descend to this kind of argumentation, if it had not become necessary for me to do so, by an observation coming from one of your lordships,* "That the letter of the act would bear out the commons in their claim; but that the sound construction might be a very different thing." I will, therefore, add but another word upon this subject:—If a *prima facie* construction be sufficient to decide, and if the commons have the letter of the law in their favour, I would ask with the profoundest humility, whether your lordships will give the sanction of your high authority to a notion, that, in statutes made to secure the liberties of the people, the express words in which they are written shall not be at least a *prima facie* evidence of their signification?

My lords, the learned counsel have been pleased to make a charge against the citizens of Dublin, "for their tests and their cavalcadings" on a late occasion; and they have examined witnesses in support of their accusation. It is true, my lords, the citizens did engage to the public, and to one another, that they would not vote for any candidate for corporate office or popular representation, who had any place in the police establishment. But I would be glad to know by what law it is criminal in freemen to pledge themselves to that conduct which they think indispensably necessary to the freedom of their country. The city of Dublin is bound to submit to whatever mode of defence shall be devised for her by law, while such law shall continue unrepealed; but I would be glad to learn, by what law they are bound not to abhor the police institution, expensive, and ineffectual, inadequate to their protection, and dangerous to their liberty; and that they do think it so, cannot be doubted. Session after session has the floor of the senate been covered with

* Lord Clare.

their petitions, praying to be relieved against it, as an oppressive, a corrupt, and therefore an execrable establishment.

True it is also, my lords, they have been guilty of those triumphant processions, which the learned counsel have so heavily condemned. The virtue of the people stood forward to oppose an attempt to seize upon their representation, by the exercise of a dangerous and unconstitutional influence, and it succeeded in the conflict; it routed and put to flight that corruption, which sat, like an incubus, on the heart of the metropolis, chaining the current of its blood, and locking up every healthful function and energy of life. The learned counsel might have seen the city pouring out her inhabitants, as if to share the general joy of escaping from some great calamity, in mutual gratulation and public triumph.*—But why does the learned counsel insist upon this subject before your lordships? Does he think such meetings illegal? He knows his profession too well, not to know the reverse.—But does he think it competent to the lord lieutenant and council of Ireland to take cognizance of such facts, or to pronounce any opinion whatever concerning the privileges of the people? He must know it is not.—Does he then mean that such things may be subjects of your resentment, though not of your jurisdiction? It would have been worth while, before that point had been pressed, to consider between what parties it must suppose the present contest to subsist. To call upon the government of the country to let their vengeance fall upon the people for their resistance of unconstitutional influence, is surely an appeal not very consistent with the virtuous impartiality of this august assembly. It is only for those who feel defeat, to feel resentment or to think of vengeance.

But suppose for a moment, (and there never ought to be reason to suppose it,) that the opposition of the city had been directly to the views or the wishes of the government; why are you, therefore, called upon to seize its corporate rights into your hands, or to force an illegal magistrate upon it? Is it insinuated that it can be just to punish a want of complaisance, by an act of lawless outrage and arbitrary power? Does the British con-

* The cavalcadings here spoken of took place on the election of Mr. Grattan and lord H. Fitzgerald, who had been returned for the city of Dublin in opposition to the court candidates, one of whom was alderman Warren then at the head of the police establishment.



stitution, my lords, know of such offences, or does it warrant this species of tyrannical reprisal? And, my lords, if the injustice of such is without defence, what argument can be offered in support of its prudence or policy? It was once the calamity of England to have such an experiment made by the last of the Stuarts, and the last of that unhappy race because of such experiments. The several corporations of that country were stript of their charters: and what was the consequence? I need not state them; they are notorious; yet, my lords, there was a time when he was willing to relinquish what he had so weakly and wickedly undertaken; but there is a time when concession comes too late to restore either public quiet, or public confidence; and when it amounts to nothing more than an acknowledgment of injustice; when the people must see, that it is only the screen behind which oppression changes her attack, from force to fraud, from the battery to the mine. See then, my lords, how such a measure comes recommended; its principle injustice, its motive vengeance, its adoption sanctioned by the authority of a tyrant, or the example of a revolution.

My lords, the learned counsel has made another observation which I cannot pass without remark; it is the last with which I shall trouble you. He says, the commons may apply to the law, and bring an information in *quo warranto* against Mr. James, though you should give him your approbation; that is, my lords, your judgment does not bind the right, it only decides the possession of the office. To this I answer, that in this case, to decide on the possession is, in fact, to decide the contest; and I found that answer on the high authority of the noble lord, who was pleased to say, that "when the city had spent three years in the king's bench, she would probably grow sick of the contest."* I was not surprised, my lords, to hear an expression of that regret which must arise in every worthy mind; and I am sure the noble lord sincerely felt at the distress of a people reduced to defend those rights which ought never to have been attacked, and to defend them in a way by which they could not possibly succeed. The truth is, as the noble lord has stated, the time of Mr. James's mayoralty would expire in a year, and the question of law could not be terminated in three; the present contest, therefore, can-

* The lord chancellor.

not be decided by law. How then, my lords, is it to be decided? Are the people to submit tamely to oppression, or are they to struggle for their liberties? I trust, my lords, you will think they have not done any thing so culpable as can justify the driving them to so calamitous a necessity; for fatal must that struggle be, in whatsoever country it shall happen, in which the liberties of a people can find no safety but in the efforts of vindictive virtue; fatal to all parties, whatsoever may be the event. But, my lords, I feel this to be a topic on which it is neither my province nor my wish to expatiate, and I leave it the more willingly, because I know that I have already trespassed very long upon your patience, and also, because I cannot relinquish a hope, that the decision of your lordships this day will be such as shall restore the tranquillity of the public mind, the mutual confidence between the government and the people, and make it unnecessary for any man to pursue so painful a subject.

The lord lieutenant and privy council confirmed the election of the commons, in the person of alderman Howison, for lord mayor.

SPEECH OF MR. CURRAN,

ON MOVING THAT IT IS THE EXCLUSIVE PRIVILEGE OF THE HOUSE OF COMMONS TO ORIGINATE MONEY BILLS.

TUESDAY, DECEMBER 16, 1783.

MR. CURRAN.—While I reflect that the motion I am now going to make is of the utmost importance to the honour, and even existence of this house, and that I have given full notice of my intention, I am much surprised at the little regard that seems intended to be paid to it, as is manifest from the emptiness of those benches. —This, sir, is not a question of party; I never did, nor ever will attach myself to party; and though I mean to move the resolution from this side of the house, yet it concerns both sides equally: it goes to assert the privileges of the people of Ireland represented in this house of commons; and I say every party, and every description of men in this house is equally concerned in supporting it. I say it is the sole and exclusive right of the commons of Ireland to originate and frame money bills in such manner as they shall think proper; and the resolution I intend to propose is only to vindicate this privilege from the encroachments of a neighbouring assembly, which has lately, by certain resolutions, invaded this right, this palladium of the constitution, which I trust every man in the house will think himself bound to defend.

I am sorry to say that the constitution of Ireland is so young, that I need not go back to a very remote period, to prove that the exclusive right of originating and framing money bills has always resided in this house; but for thirty years back it certainly has; and in England, from whence we derived our constitution, it always has been the practice. The peers and the crown possess an undoubted right of rejecting such bills *in toto*; but in the commons alone resides the power of originating or

framing them; the very mode of giving the royal assent to such bills demonstrates that the commons alone are the source from which they flow. His majesty thanks his faithful commons, accepts their benevolence, and wills it to be so; and this mode obtains both in Britain and here. To whom should the people of Ireland look for the redress of grievances, for the encouragement of arts, for the promotion of commerce, but to their representatives in this house? What powerful engine has this house, by which it can obtain the redress of grievances, the encouragement of arts, or the promotion of commerce, but by including those objects in the bill of supply? And if the right be once given up, or wrested from the commons, they cease to be the patrons and representatives of the people; another assembly will assume that power, and the people will learn to look for that encouragement and support from the aristocratic, which they now receive from the democratic branch of the state; and this house will become a very cypher, and its members, instead of possessing the power of encouraging arts, rewarding merit, or, in a word, of serving the country, will become the humble solicitors of another assembly.

From the reign of Henry the third, the power of annexing the redress of grievances to money bills has been the constitutional privilege of the commons of England; the practice of inserting such clauses as the commons have deemed proper, has obtained in Ireland for more than thirty years, and, to any person acquainted with our constitution, must, at the slightest view, appear to be their inherent right: I cannot therefore suppose this house will be silent when this privilege is invaded by another assembly; no man entertains a higher opinion of that assembly than I do, and I am persuaded that so great is their lordship's wisdom, that when this matter is duly considered by them, they will see the impropriety of two resolutions which appear upon their journals of the fourth and fifth of the present month, to this effect, "That all grants made to private manufacturers ought to be made in separate acts, and that enacting clauses in bills of supply, the matter of which is foreign to the bill, is unparliamentary, and tends to destroy the constitution of this kingdom." That the illustrious assembly to which I allude has passed such a resolution is notorious, and cannot be denied; it is inserted in their journals, and has been seen by many members of this house: the formality

therefore of appointing a committee to inspect their lordships' journals is unnecessary, and all that remains for the commons is to vindicate their own privileges by a mild and temperate resolution which I shall propose to the house; for even admitting that sometimes a house of commons has erred in making improper grants, we should rather reform ourselves, and determine not to err again, than submit to have a monitor over us.

If I was addressing a house of commons the most virtuous or the most corrupt, I should expect to be supported in this measure; for I would say to a virtuous house of commons, the privilege of originating and framing money bills is the palladium of your liberty, the great engine to restrain oppression, to redress grievances, or to encourage merit. I would say to a corrupt house of commons, it is the palladium of your corruption, the security of the wages of your venality, the means by which you may obtain the reward of your prostitution; or if I was addressing a house containing both descriptions, both kinds of argument would be applicable. But to the house before which I stand, surely the arguments which I have first used, the arguments of virtue and of honour will be sufficient; to them therefore I shall trust.

I lament that a learned and right honourable member, with whom I once had the happiness of living on terms of friendship, is now absent; because I think I might rely upon his supporting the resolution I intend to propose; that support would perhaps renew the intercourse of our friendship, which has lately been interrupted. And I must beg the indulgence of the house to say, that that friendship was on the footing of perfect equality, not imposed by obligation on the one side, or bound by gratitude on the other; for I thank God, when that friendship commenced I was above receiving obligation from any man, and therefore our friendship, as it was more pure and disinterested, as it depended on a sympathy of minds and a congeniality of sentiments, I trusted would have endured the longer. I think myself bound to make this public declaration, as it has gone forth from this house, that I am a man of ingratitude; and to declare, that for any difference of opinion with my learned and right honourable friend I cannot be taxed with ingratitude; for that I never received any obligation from him, but lived on a footing of perfect equality, save only so far as his great talents and erudition outwent mine.

I confess my obligation to the house for this indulgence of speaking a few words foreign to the debate, but which every man must think I owed to my own character; and that I may detain gentlemen no longer, I shall briefly move:

"That it is the sole and undoubted privilege of the commons of Ireland to originate all bills of supply and grants of public money, in such manner and with such clauses as they shall think proper."

SPEECH OF MR. CURRAN,

ON ATTACHMENTS.

THURSDAY, FEBRUARY 24, 1785.

MR. CURRAN said he hoped he might say a few words on this great subject, without disturbing the sleep of any right honourable member, (the attorney general having fallen asleep on his seat,) and yet, perhaps, added he, I ought rather to envy, than blame the tranquillity of the right honourable gentleman. I do not feel myself so happily tempered, as to be lulled to repose by the storms that shake the land. If they invite rest to any, that rest ought not to be lavished on the guilty spirit. He said, he never more strongly felt the necessity of a perfect union with Britain, of standing or falling with her in fortune and constitution, than on this occasion. She was the parent, the archetype of Irish liberty, which she had preserved inviolate in its grand points, while among us it has been violated and debased. He then called upon the house to consider the trust reposed in them, as the great inquest of the people. He respected judges highly; they ought to be respected, and feel their dignity and freedom from reprehension, while they did what judges ought to do; but their station should not screen them, when they passed the limit of their duty.

Whether they did, or not, was the question? The house was the judge of those judges; and it would betray the people to tyranny, and abdicate their representation, if they did not act with probity and firmness.

In their proceedings against Reilly he thought they had transgressed the law, and made a precedent which, while it remained, was subversive of the trial by jury, and, of course, of liberty. He regarded the constitution, he regarded the judges, three of

that court at least, and for their sakes he would endeavour to undo what they had done.

The question was, whether that court had really punished their own officer for a real contempt; or whether it had abused that power, for the illegal end of punishing a supposed offence against the state, by a summary proceeding, without a trial by jury?

He said the question was plain, whether as a point of constitution, or as of law; as the former, it is plain and obvious; but he would first consider it in the former view. When he felt the constitution rocking over his head, his first anxiety was to explore the foundation, to see if the great arches that supported the fabrick had fallen in; but he found them firm, on the solid and massy principle of common law. He then observed, that the principle of legal liberty was, that offence and trial and punishment should be fixed; it was sense; it was *Magna Charta*; a trial by jury as to fact—an appeal from judges as to law.

He admitted attachment an exception to the general rule, as founded in necessity, for the support of courts, in administering justice, by a summary control over their officers acting under them.

But the necessity that gave rise to it was also the limit. If it was entered farther, it would extend to all criminal cases not capital, and in the room of a jury, crimes would be created by a judge,—the party accused by him, found guilty by him, punished by the utter loss of his liberty and property for life, by indefinite fine and imprisonment, without remedy or appeal. If he did not answer, he was guilty; even if he did, the court might think or say it thought the answer evasive, and so convict him for imputed prevarication.

The power of attachment, he said, was wisely confined by the British laws, and practised within that limit. The crown lawyers had not produced a single case, where the King's-bench in England had gone beyond it. They had ranged through the annals of history; through every reign of folly, and of blood; through the proud domination of the Tudors, and the blockhead despotism of the Stuarts, without finding a single case to support their doctrine. He considered the office of sheriff as judicial and ministerial. He said Reilly's offence did not fall within any summary control in either capacity. It was not a judicial act; it

was not *colore officii.* An act *colore officii* must either be an act done by the actual exercise of an abused or usurped authority, neither of which could it be called; for where the sheriff summonses his county, he does it by command, by authority, under pain of fine and imprisonment to those who disobey.

Was the appointment of a meeting any such active exertion of authority? Did any man suppose he was obliged to attend? That he would be fined, if he refused to attend? No. Did the sheriff hold out any such colourable authority? Clearly not. The contrary:—He explained the purpose of the intended meeting: he stated at whose instance he appointed such meeting, and thereby showed to every man in his senses, that he was not affecting to convene them by colour of any compulsive authority.

If then there was any guilt in the sheriff's conduct, it was not punishable by attachment. They who argued from its enormity, were guilty of a shabby attempt to mislead men from the question, which was not, whether he ought to be punished at all; but whether he had been punished according to law?

You have heard no man adduce a single case to support their assertion; but we have the uniform practice of the King's-bench in England in our favour; the uniform practice, both there and here, during these last years. Had they not meetings there and here? Was not the crown receiving petitions and addresses from such assemblies?—Why, during that time, no motion for an attachment in either kingdom?

If an English attorney general had attempted such a daring outrage on public liberty and law, he must have found some friend to warn him not to debase the court, and make it appear to all mankind as the odious engine of arbitrary power; not to put it into so unnatural a situation, as that of standing between the people and the crown, or between the people and their representatives.

He would warn him not to bring public hatred on the government, by the adoption of illegal prosecution; that if he showed himself afraid of proceeding against offenders by the ordinary mode, then offenders would be exalted by arbitrary persecution of them; they would become suffering patriots, from being mere petty offenders; their cries would become popular. He would be warned how he led the court into an illegality, which the commons could never endure: that no honest representative could

sacrifice his fame and his duty, by voting in support of a proceeding subversive of liberty; that he would shrink from the reproach of the most insignificant of his constituents, if that constituent could say to him, 'when thou sawest the thief of the constitution, thou consentedst unto him.'

Such would be the motion suggested to an English attorney general, and accordingly we find no instance of his ever venturing on such a measure.

Without case then, or precedent, or principle, what is the support of such a conduct here? The distinction of a judge? And what is that distinction? 'tis different in different men; 'tis different in the same man at different times;—'tis the folly of a fool and the fear of a coward;—'tis the infamy of the young, and the dotage of age; in the best man it is very weakness that human nature is subject to, and in the worst, it is very vice. Will you then tell the people that you have chose this glorious distinction in the place of fixed laws, offences, and fixed punishment, and in the place of that great barrier between the prerogative and the people—a trial by jury.

But 'tis objected that the resolution is a censure on the judges, and a charge of corruption.—I deny it, and I appeal to your own acts.

He then called to the clerk, who read from the journals a vote of censure passed upon Mr. Justice Robinson, for imposing a fine illegally in a county when on circuit, without view or evidence.—Was their resolution founded on any corruption of that judge? No; you would, if so, have addressed to remove him. I called for the resolution, therefore, not to charge him with guilt; I am persuaded he acted merely through error; but to vindicate him, to vindicate you, and to exhort you to be consistent. You thought a much smaller violation of law was deserving your reprobation.—Do not abandon yourselves and your country to slavery, by suffering so much a grosser and more dangerous transgression of the constitution to become a precedent for ever. In tenderness even to the judges, interpose. Their regret, which I am sure they now feel on reflection, cannot undo what they have done; their hands cannot wash away what is written in their records; but you may repair whatever has been injured: if your friend had unwillingly plunged a dagger into the breast of a stranger, would you prove his innocence

by letting the victim bleed to death? The constitution has been wounded deeply, but I am persuaded innocently; 'tis you only, who, by neglecting to interpose, can make the consequences fatal, and the wound ripen into murder.

I would wish, I own, that the liberty of Ireland should be supported by her own children; but if she is scorned and rejected by them when her all is at stake, I will implore the assistance even of two strangers; I will call on the right honourable secretary to support the principles of the British constitution. Let him not render his administration odious to the people of Ireland, by applying his influence in this house to the ruin of their personal freedom. Let him not give a pretence to the enemies of his friend in a sister country, to say that the son of the illustrious Chatham is disgracing the memory of his great father; that the trophies of his Irish administration are the introduction of an inquisition among us, and extinction of a trial by jury; let them not say that the pulse of the constitution beats only in the heart of the empire, but that it is dead in the extremities. He concluded with declaring his hearty concurrence to the resolution proposed.

The attorney general, (Fitzgibbon,) in a speech of much personality, opposed Mr. Curran's motion.

Mr. Curran, in reply, thanked the right honourable gentleman for restoring him to his good humour, and for having, with great liberality and parliamentary decency, answered his arguments with personality! Some expressions could not heat him, when coming from persons of a certain distinction. He would not interrupt the right honourable gentleman in the fifth repetition of his speech. He would prevent his arguments, by telling him, he had not in one instance alluded to Mr. Reilly. The right honourable gentleman said, he had declared the judges guilty; but he had said no such thing. He said, if any judge was to act in the manner he mentioned, it would be an aggravation of his guilt. The right honourable gentleman had said, that the house of commons had no right to investigate the conduct of judges; if so, he would ask the learned serjeant, why he sat in that chair? he would ask why the resolution had been just read from the journals?—The gentleman had called him a babbler; he could not think that was meant as a disgrace; because in another parliament, before he had the honour of a seat in that house, but

when he was in the gallery, he had heard a young lawyer named Babbler. He did not recollect that there were sponsors at the baptismal font, nor was there any occasion, as the infant had promised and vowed so many things in his own name. Indeed he found it difficult to reply, for he was not accustomed to pronounce panegyric upon himself; he did not well know how to do it; but since he could not tell them what he was, he could tell them what he was not. He was not a man whose respect in person and character depended upon the importance of his office; he was not a young man who thrust himself into the foreground of a picture which ought to be occupied by a better figure; he was not a man who replied with invective when sinking under the weight of argument; he was not a man who denied the necessity of a parliamentary reform at the time he proved the expediency of it, by reviling his own constituents, the parish clerk, the sexton, and grave-digger; and if there was any man who could apply what he was not to himself, he left him to think of it in the committee, and to contemplate upon it when he went home.

SPEECH OF MR. CURRAN,

ON THE

COMMERCIAL RESOLUTIONS.

HOUSE OF COMMONS, SATURDAY, JULY 23d, 1785.

MR. CURRAN.—I can easily excuse some inconsistences in the conduct of the right honourable secretary, for some accidents have befallen him: when we met last, he desired us to adjourn for three weeks; we did so; and now he wants above a fortnight more. But will that help forward the business before the house? will it expedite the progress of a bill, to say, let us wait till the packet comes in from England, and perhaps we shall have some news about the propositions. Did the British minister act in this manner? no; when he postponed from time to time the consideration of the propositions, he did not postpone the other business of the house: he did not say, let it wait till the packet comes from Dublin. This the Irish minister is forced to do: I say forced, for I am sure it is not his inclination; it must distress him greatly; and I sincerely feel for and pity his distress.

When we had the eleven propositions before us, we were charmed with them. Why? because we did not understand them. Yes, the endearing word, reciprocity, rang at every corner of the streets. We then thought that the right honourable gentleman laid the propositions before us by authority: but the English minister reprobates them as soon as they get to England, and the whole nation reprobates them: thus, on one hand, we must conclude the English minister tells the Irish minister to propose an adjustment; and, when it goes back, alters every part; or that the *Irish minister* proposed it without any authority at all. I am

inclined to believe the latter; for it would add to the gentleman's distress to suppose the former.

Now let us mark another inconsistency into which the right honourable gentleman is driven, no doubt against his will. Time to deliberate was refused us, when we had something to deliberate upon; and now, when we are told we have nothing before us to consider, we are to have a fortnight's recess to enable us to think about nothing. And time indeed it will take, before we can think to any purpose. It will take time for the propositions to go through, and perhaps to be again altered in the house of lords. It will take time for them to be reconsidered in the British commons. It will take time for them to come over here. It will take time for us to consider them, though that time is likely to be very short. It will take time to send them back to England. It will take time for them to be returned to us again; and then time will be required to carry them into execution.

But a rumour hath gone abroad of a studied design to delay the discussion of this business until there shall be no members in town. But away with such a suspicion; I think too honourable of the right honourable gentleman: but yet I should be glad to hear him say, there is not even an idea of the base design of forcing them down our throats.

Mr. Secretary Orde moved, that the house do adjourn to Tuesday se'nnight.

Mr. Curran.—Sir, the adjournment proposed is disgraceful to parliament, and disgraceful to the nation. I must explain myself by stating a few facts, though they relate to a subject that I own I cannot approach but with reluctance. The right honourable gentleman early in the session produced a set of propositions which he was authorized to present to us as a system of final and permanent commercial adjustment between the two kingdoms. As a compensation for the expected advantages of this system, we were called upon to impose 140,000l. a year on this exhausted country. Unequal to our strength, and enormous as the burden was, we submitted; we were willing to strain every nerve in the common cause, and to stand or fall with the fate of the British empire.

But what is the event? I feel how much beneath us it would be to attend to the unauthenticated rumours of what may be said or done in another kingdom; but it would be a ridiculous affecta-

tion in us not to know that the right honourable gentleman's system has been reprobated by those under whose authority he was supposed to act, and that he himself has been deserted and disavowed. I cannot, for my own part, but pity the calamity of a man who is exposed to the contempt of the countries as an egregious dupe, or to their indignation as a gross impostor; for even he himself now abandons every hope of those propositions returning to this house in the form they left it. On the contrary, he now only hopes that he may be able to bring something forward that may deserve our approbation on some future day. He requests an adjournment for ten days, and he promises that he will give a week's notice, when the yet undiscovered something is to be proposed, which something he promises shall be agreeable to this nation, and authorised by the English minister. On what his confidence of this is founded I know not, unless he argues, that because he has been disavowed and exposed in his past conduct by his employers, he may rely on their supporting him in future.

But however the right honourable gentleman may fail in drawing instruction from experience or calamity, we ought to be more wise; we should learn caution from disappointment. We relied on the right honourable gentleman's assurances—we found them fallacious: we have oppressed the people with a load of taxes, as a compensation for a commercial adjustment; we have not got that adjustment: we confided in our skill in negociation, and we are rendered ridiculous by that confidence. We looked abroad for the resources of Irish commerce, and we find that they are to be sought for only at home, in the industry of the people, in the honesty of parliament, and in our learning that negociation must inevitably bring derision on ourselves, and ruin on our constituents. But you are called on to depend on the right honourable gentleman's regard for his own reputation: when the interest of the people is at stake, can we be honest in reposing on so despicable a security? Suppose this great pledge of the right honourable gentleman's character should chance to become forfeited, where will you look for it? When he sails for England, is it too large to carry with him? Or, if you would discover in what parish of Great Britain it may be found, will the sacrifice be an atonement to the people, who have already been betrayed *by trusting* to so contemptible pledge? See then what we do

by consenting to this short adjournment: we have been obscured already, and we neglect every other duty, in order to solicit a repetition of that abuse. If this something should arrive at all, it will be proposed when the business of the country will engage every county member at the assizes: for as to his week's notice, it either cannot reach him in time, or, if it should, he cannot possibly obey it. Is it then our wish to have a new subject of such moment, as a contract that is to bind us for ever, concluded in half a house, and without a single representative for a county in the number? Is it wise to trust to half the house in a negociation in which the wisdom of the whole has been already defeated? But what is the necessity that induces us to acquiesce in a measure of so much danger and disgrace? Is this nation brought to so abject a condition by her representatives, as to have no refuge from ruin but in the immediate assistance of Great Britain? Sir, I do not so far despair of the public weal: oppressed as we were, we found a resource for our constitution in the spirit of the people; abused as we now find ourselves, our commerce cannot fail of a resource in our virtue and industry, if we do not suffer ourselves to be diverted from those great and infallible resources, by a silly hope from negociation, for which we are not adapted, and in which we can never succeed. And if this great hope still is left, why fill the public mind with alarm and dismay? Shall we teach the people to think, that something instantly must be done, to save them from destruction? Suppose that something should not, cannot be done, may not the attempt, instead of uniting the two countries, involve them in the consequences of discord and dissension? But, if your compliance with the right honourable gentleman's requisition does not sink the people into despair of their own situation, does it not expose the honour and integrity of this house to suspicion and distrust? For what can they suppose we intend by this delay? The right honourable gentleman may find it worth his while to secure the continuance in his office by an expedient, however temporary and ineffectual? but, sir, if we are supposed to concur in such a design, our character is gone with the people; for, if we are honest, it can be of no moment to us whether this secretary or that minister shall continue in office or not. I know it has been rumored that the right honourable gentleman may take advantage of a thin house, to impose upon this country the new set of

resolutions that have passed the commons of Great Britain. Sir, I do not suspect any such thing, nor would I encourage such a groundless apprehension. Sir, I do not think it would be easy to find a man who would stand within the low-water mark of our shore, and read some of those resolutions above his breath, without feeling some uneasiness for his personal safety; neither can I think, if a foreign usurpation should come crested to our bar, and demand from the treachery of this house a surrender of that constitution which has been established by the virtue of the nation, that we would answer such a requisition by words.

But, sir, though the people should not apprehend such extreme perfidy from us, they will be justly alarmed if they see us acting with needless precipitation; after what is past, we cannot be surprised at not meeting with the most favourable interpretations of our conduct.

On great subjects, the magnitude of the ideas to be compared, may cause some confusion in the minds of ordinary men; they will, therefore, examine our conduct by analogy to the more frequent occurrences of common life: such cases happen every day. Will you permit me to suppose a very familiar one, by which our present situation may be illustrated to a common mind.

I will suppose then, sir, that an old friend that you loved, just recovering from a disease in which he had been wasted almost to death, should prevail upon you to take the trouble of buying him a horse for the establishment of his health; and I the more freely presume to represent you for a moment in an office so little corresponding with the dignity of your station, from a consciousness that my fancy cannot put you in any place to which you will not be followed by my utmost respect. I will therefore, suppose that you send for a horse-jockey, who does not come himself, but sends his foreman:

Says the foreman, sir, I know what you want; my master has a horse that will exactly match your friend; he has descended from Rabelais' famous Johannes Caballus, that got a doctor of physic's degree from the college of Rheims; but your friend must pay his price. My master knows he has no money at present, and will therefore accept his note for the amount of what he shall be able to earn while he lives, allowing him, however, such moderate subsistence as may prevent him from perishing *If you* are satisfied I will step for the horse and bring him in-

stantly, with the bridle and saddle, which you shall have into the bargain. But, friend, say you, are you sure that you are authorized to make this bargain? What, sir, cries the foreman, would you doubt my honour? Sir, I can find three hundred gentlemen who never saw me before, and yet have gone bail for me at the first view of my face. Besides, sir, you have a greater pledge; my honour, sir, my renown is at stake. Well, sir, you agree, the note is passed; the foreman leaves you, and returns without the horse. What, sir! where is the horse? Why, in truth, sir, answers he, I am sorry for this little disappointment, but my mistress has taken a fancy to the horse; so your friend cannot have him. But we have a nice little mare that will match him better; as to the saddle he must do without that, for little master insists on keeping it; however, your friend has been so poor a fellow that he must have too thick a skin to be much fretted by riding bare-backed; besides, the mare is so low that his feet will reach the ground when he rides her; and still further to accommodate him, my master insists on having a chain locked to her feet, of which lock my master is to have a key to lock or unlock as he pleases, and your friend shall also have a key so formed that he cannot unlock the chain, but with which he may double lock it if he thinks fit.

What, sirrah, do you think I'll betray my old friend to such a fraud? Why really, sir, you are impertinent, and your friend is too peevish; 'twas only the other day that he charged my master with having stolen his cloak, and grew angry, and got a ferrule and spike to his staff. Why, sir, you see how good-humouredly my master gave back the cloak. Sir, my master scorns to break his word, and so do I; sir, my character is your security. Now, as to the mare, you are too hasty in objecting to her, for I am not sure that you can get her; all I ask of you now is to wait a few hours in the street, that I may try if something may not be done; but let me say one word to you in confidence:

I am to get two guineas if I can bring your friend to be satisfied with what we can do for him; now if you assist me in this, you shall have half the money; for to tell you the truth, if I fail in my undertaking I shall either be discharged entirely, or degraded to my former place of helper in the stable.

Now, Mr. Speaker, as I do not presume to judge of your feelings by my own, I cannot be sure that you would beat the fore-

man, or abuse him as an impudent lying impostor: I rather think you would for a moment be lost in reflecting, and not without a pang, how the rectitude of your heart, and the tenderness of your head, had exposed you to be the dupe of improbity and folly. But, sir, I know you would leave the wretch who had deceived you, or the fool who was deceived by his master, and you would return to your friend. And methinks you would say to him, we have been deceived in the course we have adopted; for, my good friend, you must look to the exertions of your own strength for the establishment of your health. You have great stamina still remaining, rely upon them, and they will support you. Let no man persuade you to take the ferrule or spike from your staff. It will guard your cloak. Neither quarrel with the jockey, for he cannot recover the contents of the note, as you have not the horse; and he may yet see the policy of using you honestly, and deserving to be your friend. If so, embrace him, and let your staff be lifted in defence of your common safety, and until that shall happen, let it be always in readiness to defend yourself.

Such, sir, is the advice you would offer to your friend, and which I would now offer to this house. There is no ground for despairing; let us not therefore alarm the people. If a closer connexion with Great Britain is not now practicable, it may become practicable hereafter. But we shall ruin every hope of that kind by precipitation. I do therefore conjure gentlemen not to run the risk of forcing us on a week's notice to enter on a subject, on which every man in the nation ought to be allowed the most unlimited time for deliberation. I do conjure them not to assent to a measure that can serve nobody but the proposer of it; that must expose this house to the distrust of their constituents, and which may in its consequences endanger the harmony of two kingdoms, whose interests and fortunes ought never to be separated.

SPEECH OF MR. CURRAN,

ON THE

BILL FOR REGULATING THE COMMERCIAL INTERCOURSE BETWEEN GREAT BRITAIN AND IRELAND.

HOUSE OF COMMONS, FRIDAY, AUGUST 12th, 1785.

MR. ORDE moved for leave to bring in the bill.

Mr. CURRAN said, he was too much exhausted to say much at that hour (six o'clock) on the subject. His zeal had survived his strength. He wished his present state of mind and body might not be ominous of the condition to which Ireland would be reduced, if this bill should become a law. He could not therefore yield even to his weakness. It was a subject which might animate the dead. He then took a view of the progress of the arrangement, and arraigned the insidious conduct of the administration. In Ireland it was proposed by the minister; in England it was reprobated by the same minister. He had known children to learn to play cards, by playing the right hand against the left: he had never before heard of negociation being learned in that way. He said a bill was not a mode of negociating; our law spoke only to ourselves—bound only ourselves;—it was absurd therefore to let a bill proceed. But the commercial part was out of the question; for this bill portended a surrender of the constitution and liberty of Ireland. If, said he, we should attempt so base an act, it would be void, as to the people. We may abdicate our representation, but the right remains with the people, and can be surrendered only by them. We may ratify our own infamy; we cannot ratify their slavery. He feared the British minister was mistaken in the temper of Ireland, and judged of it by former times. Formerly the business here was

carried on by purchased majorities; there was a time when the most infamous measure was sure of being supported by as infamous a majority. But things were changed; the people were enlightened and strong; they would not bear a surrender of their rights, which he said would be the consequence if they submitted to this bill. It contained a covenant to enact such laws as England should think proper, they would annihilate the parliament of Ireland. The people here must go to the bar of the English house of commons for relief; and for a circuitous trade to England, we were accepting, he said, a circuitous constitution.

He said it was different totally from the cases to which it had been compared, the settlement of 1779, or the Methuen treaty; there all was specific and defined; here all was fustian and uncertain. A power to bind externally would involve a power also of binding internally. This law gave the power to Great Britain of judging what would be a breach of the compact, of construing it, in fact of taxing us as she pleased, and gave her new strength to enforce our obedience. In such an event, he said, we must either sink into utter slavery, or the people must either wade to a re-assumption of their rights through civil blood, or be obliged to take refuge in an union, which, he said, would be the annihilation of Ireland, and what he suspected the minister was driving at. Even the Irish minister, he said, no longer pretended to use his former language on this subject; formerly we were lost in a foolish admiration at the long impedimented mark of oratoric pomp with which the secretary displayed the magnanimity of Great Britain. That kind of eloquence, he supposed, was formed upon some model; but he suspected that the light of political wisdom was more easily repeated than the heat of eloquence: yet we were in raptures even with the oratory of the honourable gentleman. However he now had descended to an humble style. He talked no more of reciprocity, no more of emporium. He then went into general observations to show that this treaty would give no solid advantages to Ireland, but was a revocation of the grant of 1779. He said he loved the liberty of Ireland; he would therefore vote against the bill, as subversive of that liberty; he would also vote against it as leading to a schism between the two nations, that must terminate in a civil war, or an union at best. He was sorry, he said, that he troubled them so long; but he feared it might be the last time he should ever have an

opportunity of addressing a free parliament; and if, said he, the period is approaching when the boasted constitution of Ireland be no more, I own I feel a melancholy ambition in deserving that my name may be enrolled with those who endeavored to save it in its last moment. Posterity would be grateful for the last effort, though it should have failed of success.

HOUSE OF COMMONS, MONDAY, AUGUST 15th, 1785.

THE RIGHT HON. THOMAS ORDE having intimated that he would not press the further consideration of the commercial regulation bill during the sessions, which was in fact giving up the bill, and Mr. Flood having moved the following resolution:

"*Resolved*, That we hold ourselves bound not to enter into any engagement to give up the sole and exclusive right of the parliament of Ireland to legislate for Ireland in all cases whatsoever, as well externally as commercially and internally."

Mr. Curran expressed the effusion of his joy upon the victory this country had obtained. He said he would support the resolution proposed by the honourable member, because he thought it necessary to declare to the people, that their rights had not been solely supported by 110 independent gentlemen, but that if eight or ten of them had been absent, that those who had countenanced the measure would have abandoned every idea of prosecuting it further. It had ever been the custom of our ancestors, when the constitution had been attacked, to enter into some spirited step for its support. Why was Magna Charta passed? It was passed, not to give freedom to the people, but because the people were already free. Why was the repeal of the 6th of Geo. I.? Not to give independence to the men of Ireland, but because Ireland was in itself an independent nation. This resolution did not go to give rights, but to declare that we will preserve our rights. We were told to be cautious how we commit ourselves with the parliament of Great Britain: whether this treat carried with it more of prudence or timidity, he should leave gentlemen to determine. He rejoiced that the cloud which had lowered over them had passed away, and he declared he had no intention to wound the feelings of the minister, by triumphing in his defeat: on the contrary, he might be said to

rise with some degree of self-denial, when he gave to others an opportunity of exulting in the victory. The opposition in England had thrown many impediments in the way, but he would remember with gratitude, that the opposition there, had supported the liberties of Ireland. When he saw them reprobating the attacks made upon the trial by jury; when he saw them supporting the legislative rights of Ireland, he could not refrain from giving them his applause. They well knew that an invasion of the liberty of Ireland would tend to an attack upon their own. The principle of liberty, thank Heaven, still continued in those countries:—that principle which had stained the fields of Marathon, stood in the pass to Thermopylæ, and gave to America independence. Happy it was for Ireland, that she had recovered her rights by victory, not stained by blood—not a victory bathed in the tears of a mother, a sister, or a wife—not a victory hanging over the grave of a Warren or a Montgomery, and uncertain whether to triumph in what she had gained, or to mourn over what she had lost!

He said, as to the majority who had voted for bringing in the bill, the only way they could justify themselves to their constituents was by voting for the resolution. As to the minority who had saved the country, they needed no vindication; but those who voted for the introduction of the bill must have waited for the committee, to show the nation that they would never assent to the fourth proposition. That opportunity, he said, could never arrive.—The bill was at an end. The cloud that had been collecting so long, and threatening to break in tempest and ruin on our heads, had passed harmless away. The siege that was drawn round the constitution was raised, and the enemy was gone. *Juvat ire, et Dorica castra,* and they might now go abroad without fear, and trace the dangers they had escaped; here was drawn the line of circumvallation, that cut them off for ever from the Eastern world: and there the corresponding one, that inclosed them from the West. Nor let us, said he, forget in our exultation to whom we are indebted for the deliverance.—Here stood the trusty mariner [Mr. Conolly] on his old station the mast head, and gave the signal. Here [Mr. Flood] all the wisdom of the state was collected, exploring your weakness and your strength, detecting every ambuscade, and pointing to the hidden battery, that was brought to bear on the shrine of

freedom. And there [Mr. Grattan] was exerting an eloquence more than human, inspiring, forming, directing, animating, to the great purposes of your salvation, &c. But I feel, said he, that I am leaving the question, and the bounds of moderation; but there is an ebullition in great excesses of joy that almost borders on insanity. I own I feel something like it in the profuseness with which I share in the general triumph. It was not, however, a triumph which he wished to enjoy at the expense of the honourable gentleman; who had brought in the bill, he was willing to believe, with the best intention. Whatever he might have thought before, he now felt no trace of resentment to the honourable gentleman. On the contrary, he wished that that day's intercourse, which would probably be their last, might be marked on his part with kindness and respect.

He was for letting the right honourable gentleman easily down; he was not for depressing him with the triumph, but he was for calling him to share in the exultation. Upon what principle could the gentlemen who supported the previous question defend their conduct, unless it was in contradiction to the general rule of adhering to measures, not to the man? Here it was plain they were adhering to the man, not to the measure; the measure had sunk, but the man was still afloat. Perhaps they thought it decent to pay a funeral compliment to his departure; yet he warned them how they pressed too eagerly forward, for as there could not be many bearers, some of them might be disappointed of the scarf or the cypress. He besought them now to let all end in good humour, and, like sailors, who had pursued different objects, when they got into port, shake hands with harmony.

SPEECH OF MR. CURRAN,

ON PENSIONS.

HOUSE OF COMMONS, MARCH 13th, 1786.

MR. FORBES presented a bill to limit the amount of pensions, which was received and read the first time.

Mr. Mason moved, "that the second reading of the bill be postponed till the first of August."

Sir Boyle Roche opposed the bill, and said, "he would not stop the fountain of Royal favour, but let it flow freely, spontaneously, and abundantly, as Holywell in Wales, that turns so many mills."

Mr. CURRAN.—I object to adjourning this bill to the first of August, because I perceive in the present disposition of the house, that a proper decision will be made upon it this night. We have set out upon our inquiry in a manner so honourable, and so consistent, that we have reason to expect the happiest success, which I would not wish to see baffled by delay.

We began with giving the full affirmative of this house, that no grievance exists at all; we considered a simple matter of fact, and adjourned our opinion, or rather we gave sentence on the conclusion, after having adjourned the premises. But I do begin to see a great deal of argument in what the learned baronet has said, and I beg gentlemen will acquit me of apostacy if I offer some reasons why the bill should not be admitted to a second reading.

I am surprised that gentlemen have taken up such a foolish opinion, as that our constitution is maintained by its different component parts, mutually checking and controlling each other: they seem to think with Hobbes, that a state of nature is a state of warfare, and that, like Mahomet's coffin, the constitution is *sus*pended between the attraction of different powers. My friends

seem to think that the crown should be restrained from doing wrong by a physical necessity, forgetting that if you take away from man all power to do wrong, you at the same time take away from him all merit of doing right, and by making it impossible for men to run into slavery, you enslave them most effectually. But if instead of the three different parts of our constitution drawing forcibly in right lines, at opposite directions, they were to unite their power, and draw all one way, in one right line, how great would be the effect of their force, how happy the direction of this union. The present system is not only contrary to mathematical rectitude, but to public harmony; but if instead of privilege setting up his back to oppose prerogative, he was to saddle his back and invite prerogative to ride, how comfortably might they both jog along; and therefore it delights me to hear the advocates for the royal bounty flowing freely and spontaneously and abundantly as Holywell in Wales. If the crown grants double the amount of the revenue in pensions, they approve of their royal master, for he is the breath of their nostrils.

But we will find that this complaisance, this gentleness between the crown and its true servants, is not confined at home; it extends its influence to foreign powers. Our merchants have been insulted in Portugal, our commerce interdicted; what did the British lion do? Did he whet his tusks? Did he bristle up and shake his mane? Did he roar? No; no such thing—the gentle creature wagged his tail for six years at the court of Lisbon: and now we hear from the Delphic oracle on the treasury bench, that he is wagging his tail in London to chevalier Pinto, who he hopes soon to be able to tell us will allow his lady to entertain him as a lap dog; and when she does, no doubt the British factory will furnish some of their softest woollens to make a cushion for him to lie upon. But though the gentle beast has continued fawning and couching, I believe his vengeance will be great as it is slow, and that posterity, whose ancestors are yet unborn, will be surprised at the vengeance he will take.

This polyglot of wealth, this museum of curiosities, the pension list, embraces every link in the human chain, every description of men, women and children, from the exalted excellence of a Hawke or a Rodney, to the debased situation of the lady who humbleth herself that she may be exalted. But the lessons it

inculcates form its greatest perfection:—it teacheth that sloth and vice may eat that bread which virtue and honesty may starve for after they had earned it. It teaches the idle and dissolute to look up for that support which they are too proud to stoop and earn. It directs the minds of men to an entire reliance on the ruling power of the state, who feeds the ravens of the royal aviary, that cry continually for food. It teaches them to imitate those saints on the pension list that are like lilies of the field —they toil not, neither do they spin, but they are arrayed like Solomon in his glory. In fine, it teaches a lesson which indeed they might have learned from Epictetus—that it is sometimes good not to be over virtuous; it shows, that in proportion as our distresses increase, the munificence of the crown increases also—in proportion as our clothes are rent, the royal mantle is extended over us.

But notwithstanding the pension list, like charity, covers a multitude of sins, give me leave to consider it as coming home to the members of this house—give me leave to say, that the crown in extending its charity, its liberality, its profusion, is laying a foundation for the independence of parliament; for hereafter, instead of orators or patriots accounting for their conduct to such mean and unworthy persons as free-holders, they will learn to despise them, and look to the first man in the state; and they will by so doing have this security for their independence, that while any man in the kingdom has a shilling, they will not want one.

Suppose at any future period of time the boroughs of Ireland should decline from their present flourishing and prosperous state —suppose they should fall into the hands of men who would wish to drive a profitable commerce, by having members of parliament to hire or let; in such a case a secretary would find great difficulty if the proprietors of members should enter into a combination to form a monopoly; to prevent which in time, the wisest way is to purchase up the raw material, young members of parliament, just rough from the grass; and when they are a little bitted, and he has got a pretty stud, perhaps of seventy, he may laugh at the slave merchant: some of them he may teach to sound through the nose, like a barrel organ; some, in the course of a few months might be taught to cry hear! hear! some, chair! chair! upon occasion; though these latter might create a little confusion, if they were to forget whether they called inside or outside of

those doors. Again, he might have some so trained that he need only pull a string, and up gets a repeating member; and if they were so dull that they could neither speak nor make orations, (for they are different things) he might have them taught to dance, *pedibus ire in sententia.*—This improvement might be extended; he might have them dressed in coats and shirts all of one colour, and of a Sunday he might march them to church two by two, to the great edification of the people and the honour of the christian religion; afterwards, like the ancient Spartans, or the fraternity at Kilmainham, they might dine all together in a large hall. Good heaven! what a sight to see them feeding in public upon public viands, and talking of public subjects for the benefit of the public. It is a pity they are not immortal; but I hope they will flourish as a corporation, and that pensioners will beget pensioners to the end of the chapter.

SPEECH OF MR. CURRAN,

ON PENSIONS.

HOUSE OF COMMONS, MONDAY, MARCH 12th, 1787.

MR. FORBES presented a bill to limit pensions; it was read a first time: he then moved, that it be read a second time on the following day; this was opposed by the Chancellor of the Exchequer, who moved, that the bill should be read a second time on the first of August.

MR. CURRAN said, he felt too much respect for the excellent mover of the bill, and too strong a sense of the necessity of the measure, to give it only a silent support. He rejoiced, he said, in the virtuous perseverance of his honourable friend in labouring for the establishment of our constitution, by securing the independence of parliament. He would offer some reasons in defence of the bill, though he felt the full force of the policy adopted by administration, to make any attempt of that kind either ridiculous or impossible. He observed the gentlemen, he said, consulting whether to bury the question under a mute majority, or whether to make a sham opposition to it by setting up the old gladiator of administration, new polished and painted for the field. They expected, he supposed, that men should shrink in silence and disgust from such a competition. He would, he said, defend the principle of the bill on the grounds of economy, but still more of constitution. He adverted to the frame of our civil state, it depended on an exact balance of its parts, but he said, from our peculiar situation, that equipoise on which our liberty depends must be continually losing ground, and the power of the crown continually increasing. A single individual can be vigilant and active, improving every occasion of extending his power; the

people are not so, they are divided in sentiment. in interest without union, and therefore without co-operation, and from the necessity of bringing the constitution frequently back to its first principles; but this, he said, was doubly necessary to do by law in a country where a long system of dividing the people had almost extinguished that public mind, that public vigilance and jealousy, with which the conduct of the crown was watched over in Great Britain. But further, he said, it was rendered necessary by the residence of our king in another country.—His authority must be delegated first to a viceroy, and next it fell to a secretary, who could have no interest in the good of the people; no interest in future fame, no object to attract him but the advancement of his dependants. Then, he said, the responsibility that binds an English king to moderation and frugality was lost here in the confusion of persons, or in their insignificance. This, he said, might be deemed an unusual language in that house, but assured the right honourable secretary, he did not speak with any view of disturbing his personal feelings; he did not admire, nor would he imitate the cruelty of the Sicilian tyrant who amused himself with putting insects to the torture; he was therefore stating facts. What responsibility, said he, can be found or hoped for in an English secretary? Estimate them fairly, not according to the adulation that lifts them into a ridiculous importance while they are among you, or the as unmerited contumely that is heaped upon them by disappointment and shame when they leave you. But what have they been in fact?—why, a succession of men, sometimes with heads, sometimes with hearts, oftener with neither.

But as to the present right honourable secretary, he said, it was peculiarly ridiculous to talk of his responsibility or his economy, to the people: his economy was only to be found in reducing the scanty pittance which profusion had left for the encouragement of our manufactures; or in withholding from the undertakers of a great national object, that encouragement that had been offered them on the express faith of parliament; unless, perhaps, it were to be looked for in the pious plan of selling the materials of houses of religious worship on a principle of economy. But where will you look, said he, for his responsibility as a minister? You will remember his commercial propositions. They were proposed to this country on his responsibility. You

cannot forget the exhibition he made; you cannot have yet lost his madrigal on reciprocity: but what was the event? He went to Great Britain with ten propositions, and he returned with double the number, disclaimed and abandoned by those to whom he belonged, and shorn of every pretension to responsibility. But look for it in the next leading feature of his administration.

We gave an addition of 140,000*l.* in taxes, on the express compact and condition of confining expense within the limits of revenue. Already has that compact been shamefully evaded: but what says the responsible gentleman? Why he stood up in his place, and had the honest confidence boldly to deny the fact. Now, said he, I should be glad to ask who that right honourable gentleman is? Is he the whole house of commons? If he be, he proposed the compact. Is he the king? he accepted it by his viceroy. Is he the viceroy? he accepted by himself. In every character that could give such a compact either credit, or dignity, or stability, he has either proposed or ratified it; in what character then does the right honourable gentleman deny it? why, in his own; in that of a right honourable gentleman. Can any man then, said he, be so silly as to think that so barefaced a spirit of profusion can be stopped by any thing less than a law?—Or can any man point out any ground on which we can confide in the right honourable gentleman's affection to the interest or even the peace of this country? At a time when we are told that the people are in a state of tumult little short of rebellion, when you ought to wish to send an angel to recall the people to their duty, and restore the credit of the laws, what does he do?—he keeps three judicial places, absolute, vacant, or sinecure places, as if in this country not officers, but offices are to become superannuated; and he sends the commission with a job tacked to it, to be displayed in the very scene of this supposed confusion.—Would this contemptuous trifling with the public be borne in Great Britain? No, sir; but what the substance of an English minister, with all his talents, would not dare to attempt in that country, his fetch is able to achieve, and with impunity, in this.

But a right honourable member opposes the principle of the bill, as being in restraint of the royal bounty. I agree with him in this sentiment, but I differ from this argument. It becomes *the dignity* and humanity of a generous people to leave it in the

power of the sovereign to employ some part of the public wealth for honourable purposes, for rewarding merit, for encouraging science.—Nor would it become us to inquire too narrowly into every casual or minute misapplication; but a gross and general application of the people's money to the encouragement of every human vice, is a crying grievance that calls on every man to check it; not by restraining the bounty of the crown, but curbing the profusion of Irish administrations.

The pension list, at the best of times, was a scandal to this country; but the present abuses of it, he said, went beyond all bounds, and almost justified what he would formerly have considered as shameful. If a great officer of state, for instance, finds that the severity of business requires the consolation of the tender passion, he courts through the pension list; and the lady, very wisely, takes hold of the occasion, which, perhaps, could not be taken of the lover, and seizes time by the forelock. Why, sir, we may pass over a little treaty of that sort; it may naturally enough fall under the articles of concordatum or contingences; but that unhappy list has been degraded by a new species of prostitution that was unknown before: the granting of honours and titles, to lay the foundation for the grant of a pension. The suffering any man to steal a dignity, for the purpose that a barren beggar steals a child. It was reducing the honours of the state from badges of dignity to badges of mendicancy.

He then adverted to the modern practice of doubling the pensions of members of that house, who were unhappily pensioners already. Was the secretary, he said, afraid of their becoming converts? Was it necessary to double-bolt them with pensions? Was there really so much danger that little fricksay would repent and go into a nunnery, that the kind keeper must come down another hundred, to save her from becoming honest?

But a right honourable gentleman, he said, had made another objection rather inconsistent with his former:—he feared it would take away the control of parliament on pensions within the limits of the act proposed. The objection was not, therefore, founded in fact, at the same time that the argument admitted that the unlimited power of pensioning was a grievance that ought to be remedied by some effectual control; such, he said, was the principle and the effect of this bill, if carried into a law. It would not restrain the crown; it would not restrain a lord lieutenant;

it would only restrain a secretary from that shameful profusion of the public treasure, unimputable and unknown to his majesty or his viceroy, which was equally disgraceful to the giver and receiver.—It was a bill to preserve the independence of parliament; it was a bill to give us the constitution of Great Britain when we had it not before. It was a bill peculiarly necessary when we had adopted a penal law of Great Britain, giving a new force to the executive magistrate, that we should also adopt that law of Great Britain, which might secure the rights of the people: it was a law necessary as a counterpoise to the riot-act: it was a law of invention, and, if necessary, prevention; for if, said he, you wait till the evil, which my right honourable friend is anxious to guard against, shall have actually fallen upon this country, the corruption will be universal, and the remedy impossible.

SPEECH OF MR. CURRAN,

ON CATHOLIC EMANCIPATION.

HOUSE OF COMMONS, OCTOBER 17th, 1798.

MR. GRATTAN moved the following resolution: "That the admissibility of persons professing the Roman Catholic religion, to seats in parliament, is consistent with the safety of the crown, and the connexion of Ireland with Great Britain.

Seconded by Mr. G. Ponsonby.

Mr. G. Ogle voted for the order of the day.

Mr. Curran began, by declaring, that he had no words to express the indignation he felt at the despicable attempt to skulk from the discussion of so important and so necessary a question, by the affectation of an appeal to our secrecy and our discretion; the ludicrous, the ridiculous secrecy of a public assembly; the nonsense of pretending to conceal from the world what they know as well, or better, than ourselves; the rare discretion of an Irish parliament hiding from the executive directory of the French republic the operations of their own armies: concealing from them their victories in Italy, or their humiliation of Great Britain; concealing from them the various coquetry of her negociations, and her now avowed solicitations of a peace. As ridiculous and as empty was the senseless parade of affecting to keep our own deliberations a secret. Rely upon it, sir, said he, if our enemies condescend to feel any curiosity as to our discussion, you might as well propose to conceal from them the course of the Danube, or the course of the Rhine, as the course of a debate in this assembly, as winding, perhaps, and perhaps as muddy as either. But the folly of the present advocates for silence and for secrecy went still farther:—it proposed to

keep all these matters a profound secret from ourselves; it went to the extravagant length of saying, that if we were beaten, we were not to deliberate upon the means of repairing our disasters; that would be to own that we were beaten; that if the enemy was at our gates, it would not be prudent to acknowledge so terrifying a fact, even in considering the means of repelling him; that if our people were disaffected, we ought to be peculiarly cautious of any measures that could possibly tend to conciliation and union, because the adoption, or even the discussion of such measures, would be, in effect, to tell ourselves, and to tell all the world, that the people were disaffected. He said, that the infatuation or the presumption of ministers went even farther than this:—that it insisted upon the denial and the avowal of the very same facts; that we were to be alarmed with an invasion, for the purpose of making us obsequious to all the plans of ministers for intrenching themselves in their places; that we were to be panic struck for them, but disdainful for ourselves; that our people were to be disaffected, and the consequences of that disaffection to be the most dangerous and the most imminent, for the purpose of despoiling ourselves of our best and most sacred privileges. So imminent was this danger, that it was declared by ministers and by their adherents, that, in order to preserve our liberties for ever, it was absolutely necessary to surrender them for a time; the surrender had been actually made. So frightfully disunited and divided were we, that we could not venture to trust ourselves with the possession of our freedom; but we were all united as one man against redressing the grievances of the great majority of ourselves; we were all united as one man against the conciliation of our animosities, and the consolidation of our strength. He declared, that, for one, he would never submit to be made the credulous dupe of an imposture so gross and so impudent: he knew that the times were critical indeed; he knew that it was necessary to open our eyes to our danger, and to meet it in the front: to consider what that danger was, and to consider of the best, and perhaps the only, possible means of averting it. For these reasons he considered the resolution not only a measure of justice and of honesty, but of the most pressing necessity.

He knew, he said, that a trivial subject of the day would naturally engage them more deeply, than any more distant object *of* however greater importance; but he begged they would recol-

lect that the petty interest of party must expire with themselves, and that their heirs must be, not statesmen, nor placemen, nor pensioners, but the future people of the country at large. He knew of no so awful a call upon the justice and wisdom of an assembly, as the reflection that they were deliberating on the interests of posterity.

The first step of ministers was to create a division among the Catholics themselves; the next was to hold them up as a body formidable to the English government, and to their protestant fellow subjects; but he conjured the house to be upon their guard against those despicable attempts to traduce their people, to alarm their fears, or to inflame their resentment: gentlemen have talked as if the question was, whether we may with safety to ourselves, relax or repeal the laws which have so long concerned our catholic fellow subjects? The real question is, whether you can, with safety to the Irish constitution, refuse such a measure? It is not a question merely of their sufferings or their relief, it is a question of your own preservation.

There are some maxims, which an honest Irishman will never abandon, and by which every public measure may be fairly tried. These are, the preservation of the constitution upon the principles established at the revolution, in church and state; and next, the independency of Ireland, connected with Britain as a confederated people, and united indissolubly under a common and inseparable crown. If you wish to know how these great objects may be affected by a repeal of those laws, see how they were affected by their enaction. Here you have the infallible test of fact and experience; and wretched indeed must you be, if false shame, false pride, false fear, false spirit, can prevent you from reading that lesson of wisdom which is written in the blood and calamities of your country.

Here Mr. Curran went into a detail of the property laws as they affected the catholics of Ireland. He described them as destructive of arts, of industry, of private morals and public order as extirpating even the christian religion among them, and reducing them to the condition of savages and rebels, disgraceful to humanity, and formidable to the state. Having traced the progress and effects of those laws from the revolution in 1779;—

Let me now ask you, said he, how have those laws affected the

protestant subject and the protestant constitution. In that interval were they free? Did they possess that liberty which they denied to their brethren? No, sir; where there are inhabitants, but no people, there can be no freedom; unless there be a spirit, and what may be called a pull in the people, a free government cannot be kept steady or fixed in its seat. You had indeed a government, but it was planted in civil dissension, and watered in civil blood; and whilst the virtuous luxuriance of its branches aspired to heaven, its infernal roots shot downward to their congenial regions, and were intertwined in hell. Your ancestors thought themselves the oppressors of their fellow-subjects, but they were only their jailors, and the justice of providence would have been frustrated, if their own slavery had not been the punishment of their vice and their folly.

But are those facts for which we must appeal to history? You all remember the year one thousand seven hundred and seventy-nine. What were you then? Your constitution, without resistance, in the hands of the British parliament; your trade in many parts extinguished, in every part coerced. So low were you reduced to beggary and servitude, as to declare, that unless the mercy of England was extended to your trade, you could not subsist. Here you have an infallible test of the ruinous influence of those laws in the experience of a century; of a constitution surrendered, and commerce utterly extinct. But can you learn nothing on this subject from the events that followed? In 1778, you somewhat relaxed the severity of those laws, and improved, in some degree, the condition of the catholics. What was the consequence even of a partial union with your countrymen? The united efforts of the two bodies restored that constitution which had been lost by their separation. In 1782 you became free. Your catholic brethren shared the danger of the conflict, but you had not justice or gratitude to let them share the fruits of the victory. You suffered them to relapse into their former insignificance and depression. And let me ask you, has it not fared with you according to your deserts? Let me ask you, if the parliament of Ireland can boast of being now less at the feet of the British minister, than at that period it was of the British parliament? Here he observed on the conduct of the administration for some years past, in the accumulation of public burdens and parliamentary influence: but, said he, it is not the

mere increase of debt; it is not the creation of one hundred and ten placemen and pensioners that forms the real cause of the public malady. The real cause is the exclusion of your people from all influence upon the representative. The question therefore is, whether you will seek your own safety in the restoration of your fellow subjects, or whether you will choose rather to perish than be just? He then proceeded to examine the objections to a general incorporation of the catholics. On general principles, no man could justify the deprivation of civil rights on any ground but that of forfeiture for some offence. The papist of the last century might forfeit his property for ever, for that was his own; but he could not forfeit the rights and capacities of his unborn posterity. And let me observe, said he, that even those laws against the offender himself were enacted while injuries were recent, and while men were not unnaturally alarmed by the consideration of a French monarchy, a pretender, and a pope; things that we now read of, but can see no more. But are they disaffected to liberty? On what ground can such an imputation be supported? Do you see any instance of any man's religious theory governing his civil or political conduct? Is popery an enemy to freedom? Look to France, and be answered. Is protestantism necessarily its friend? You are protestants; look to yourselves, and be refuted. But look further. Do you find even the religious sentiments of secretaries marked by the supposed characteristics of their sects? Do you find that a protestant Briton can be a bigot with only two sacraments, and a catholic Frenchman a deist, admitting seven? But you affect to think your property in danger by admitting them into the state. That has been already refuted: but you yourselves refuted your own objection. Seventeen years ago you expressed the same fear, yet you made the experiment; you opened the door to landed property, and the fact has shown the fear to be without foundation.

But another curious topic has been stated again; the protestant ascendancy is in danger. What do you mean by that word? Do you mean the right, and property, and dignities of the church? If you do, you must feel they are safe. They are secured by the law, by the coronation oath, by a protestant parliament, a protestant king, a protestant confederated nation. Do you mean the free and protected exercise of the protestant religion? You

know it has the same security to support it. Or do you mean the just and honourable support of the numerous and meritorious clergy of your own country, who really discharge the labours and duties of the ministry? As to that, let me say, that if we felt on that subject as we ought, we should not have so many men of talents and virtues struggling under the difficulties of their scanty pittance, and feeling the melancholy conviction that no virtues or talents can give them any hope of advancement. If you really mean the preservation of every right and every honour that can dignify a christian priest and give authority to his function, I will protect them as zealously as you. I will ever respect and revere the man who employs himself in diffusing light, hope, and consolation. But if you mean by ascendancy, the power of persecution, I detest and abhor it. If you mean the ascendancy of an English school over an Irish university, I cannot look upon it without aversion. An ascendancy of that form raises to my mind a little greasy emblem of stall-fed theology, imported from some foreign land, with the graces of a lady's maid, the dignity of a side-table, the temperance of a larder, its sobriety the dregs of a patron's bottle, and its wisdom the dregs of a patron's understanding, brought hither to devour, to degrade, and to defame. Is it to such a thing you would have it thought that you affixed the idea of the protestant ascendancy? But it is said, admit them by degrees, and do not run the risque of too precipitate an incorporation. I conceive both the argument and the fact unfounded. In a mixed government, like ours, an increase of the democratic power can scarcely ever be dangerous. None of the three powers of our constitution act singly in the line of its natural direction; each is necessarily tempered and diverted by the action of the other two: and hence it is, that though the power of the crown has, perhaps, far transcended the degree to which theory might confine it, the liberty of the British constitution may not be in much danger. An increase of power to any of the three, acts finally upon the state with a very diminished influence, and therefore great indeed must be that increase in any one of them, which can endanger the practical balance of the constitution. Still, however, I contend not against the caution of a gradual admission. But let me ask you, can you admit them any otherwise than gradually? The striking and melancholy symptom of the *public* disease is, that if it recovers at all it can be only through

a feeble and lingering convalescence. Yet even this gradual admission your catholic brethren do not ask, save under every pledge and every restriction, which your justice and wisdom can recommend to your adoption.

He called on the house to consider the necessity of acting with a social and conciliatory mind. That contrary conduct may perhaps protract the unhappy depression of our country, but a partial liberty cannot long subsist. A disunited people cannot long subsist. With infinite regret must any man look forward to the alienation of three millions of our people, and to a degree of subserviency and corruption in the fourth: I am sorry, said he, to think it is so very easy to conceive, that in case of such an event the inevitable consequence would be, *an union with Great Britain.* And if any one desires to know what that would be, I will tell him: *it would be the emigration of every man of consequence from Ireland; it would be the participation of British taxes without British trade; it would be the extinction of the Irish name as a people. We should become a wretched colony, perhaps leased out to a company of Jews, as was formerly in contemplation, and governed by a few tax-gatherers and excise-men, unless possibly you may add fifteen or twenty couple of Irish members, who might be found every session sleeping in their collars under the manger of the British minister.*

Mr. Curran then entered largely into the state of the empire and of its allies, of the disposition of our enemies towards Great Britain, of the nature of their political principles, and of the rapid dissemination of those principles. He declared that it was difficult to tell whether the dissemination of these principles was likely to be more encouraged by the continuance of the war or by the establishment of a peace; and if the war was, as has been repeatedly insisted on, a war on our part for the preservation of social order and of limited monarchy, he strongly urged the immediate necessity of making those objects the common interest and the common cause of every man in the nation. He reprobated the idea of any disloyalty in the catholics, an idea, which, he said, was sometimes more than intimated, and sometimes as vehemently disclaimed by the enemies of catholic emancipation; but, he said, the catholics were men, and were of course sensible to the impression of kindness, and injury, and of insult; that they knew their rights, and felt their wrongs, and that nothing but the grossest ignorance, or the meanest hypocrisy could represent them

as cringing with a slavish fondness to those who oppressed and insulted them. He sought, he said, to remove their oppressions, in order to make the interests of the whole nation one and the same, and to that great object, the resolution, moved by his right honourable friend manifestly tended; and he lamented exceedingly, that so indecent and so disingenuous a way of evading that motion had been resorted to, as passing to the order of the day, a conduct, that, however speciously the gentleman who had adopted it might endeavour to excuse, he declared, could be regarded by the catholics, and by the public, no otherwise than as an expression of direct hostility to the catholic claims. He animadverted, with much severity, upon an observation from the other side of the house, that the catholics were already in possession of political liberty, and were only seeking for political power. He asked, what was it then that we were so anxiously withholding, and so greedily monopolizing; and declared, that the answer which had been given that observation, by a learned and honourable friend near him (Mr. Wm. Smith) was that of a true patriot, and of a sound constitutional lawyer; namely, that civil liberty was a shadow, without a sufficient portion of political power to protect it.

Having replied to the arguments of several members that had preceded him in the debate, Mr. Curran came to the speech that had been delivered by Dr. Duigenan, and entertained the house, for about half an hour, with one of the most lively sallies of wit and humour that we remember to have heard. He said, that the learned doctor had made himself a very prominent figure in the debate! Furious indeed had been his anger, and manifold his attack; what argument, or what man, or what thing, had he not abused? Half choaked by his rage in refuting those who had spoke, he had relieved himself by attacking those who had not spoke; he had abused the catholics, he had abused their ancestors, he had abused the merchants of Ireland, he had abused Mr. Burke, he had abused those who voted for the order of the day. I do not know, said Mr. Curran, but I ought to be obliged to the learned doctor, for honouring me with a place in the invective; he has called me the bottle-holder of my right honourable friend; sure I am, said he, that if I had been the bottle-holder of both, the learned doctor would have less reason to complain of me than my right honourable friend; for him I should have left perfectly sober, whilst

it would very clearly appear, that, with respect to the learned doctor, the bottle had not only been managed fairly, but generously; and, that if, in furnishing him with liquor, I had not furnished him with argument, I had, at least, furnished him with a good excuse for wanting it; with the best excuse for that confusion of history, and divinity, and civil law, and canon law, that rollocking mixture of politics, and theology, and antiquity, with which he has overwhelmed the debate, for the havoc and carnage he has made of the population of the last age, and the fury with which he seemed determined to exterminate, and even to devour the population of this; and which urged him, after tearing and gnawing the characters of the catholics, to spend the last efforts of his rage with the most unrelenting ferocity, in actually gnawing their names, [alluding to Dr. Duigenan's pronunciation of the name of Mr. Keogh, and which Mr. Curran said, was a kind of pronuntiatory defamation.] In truth, sir, said he, I felt some surprise, and some regret, when I heard him describe the sceptre of lath, and the tiara of straw, and mimic his bedlamite emperor and pope with such refined and happy gesticulation, that he could be prevailed on to quit so congenial a company. I should not, however, said he, be disposed to hasten his return to them, or to precipitate the excess of his fit, if by a most unlucky felicity of indiscretion, he had not dropped some doctrines which the silent approbation of the minister seemed to have adopted. Mr. Curran said, he did not mean amongst these doctrines to place the learned doctor's opinions touching the revolution, nor his wise and valorous plan, in case of an invasion, of arming the beadles and the sextons, and putting himself in wind for an attack upon the French by a massacre of the papists; the doctrine he meant was, that catholic franchise was inconsistent with British connexion. Strong, indeed, said he, must the minister be in so wild and desperate a prejudice, if he can venture, in the fallen state of the empire, under the disasters of the war, and with an enemy at the gate, if he can dare to state to the great body of the Irish nation, that their slavery is the condition of their connexion with England; that she is more afraid of yielding to Irish liberty than of losing Irish connexion; and the denunciation, he said, was not yet upon record, it might yet be left with the learned doctor, who he hoped, had embraced it only to make it odious, had hugged it in his arms with the generous purpose of plunging with it into

the deep, and exposing it to merited derision, even at the hazard of the character of his own sanity. It was yet in the power of the minister to decide, whether a blasphemy of this kind should pass for the mere ravings of frenzy, or for the solemn and mischievous lunacy of a minister: he called therefore again, to rouse that minister from his trance, and in the hearing of the two countries, to put that question to him, which must be heard by a third, Whether at no period, upon no event, at no extremity, we were to hope for any connexion with Britain, except that of the master and the slave; and this even without the assertion of any fact that could support such a proscription?

It was necessary, he found, to state the terms and the nature of the connexion; it had been grossly misrepresented; it was a great federal contract between perfectly equal nations, pledging themselves to equal fate, upon the terms of equal liberty, upon perfectly equal liberty. The motive to that contract was the mutual benefit to each, the object of it, their mutual and common benefit; the condition of the compact was, the honest and fair performance of it, and from that only, arose the obligation of it. If England showed a decided purpose of invading our liberty, the compact by such an act of foulness and perfidy was broken, and the connexion utterly at an end: but, he said, the resolution moved for by his right honourable friend to the test of this connexion, to invade our liberty, was a dissolution of it.

But what is liberty as known to our constitution? It is a portion of political power necessary to its conservation; as, for instance, the liberty of the commons of those kingdoms is that right, accompanied with a portion of political power to preserve it against the crown and against the aristocracy. It is by invading the power that the right is attacked in any of its constituent parts; hence it is, that if the crown shows a deliberate design of so destroying it, it is an abdication; and let it be remembered that by our compact we have given up no constitutional right. He said, therefore, that he was warranted, as a constitutional lawyer, in stating, that if the crown or its ministers, by force or by fraud, destroyed that fair representation of the people, by which alone they could be protected in their liberty, it was a direct breach of the contract of connexion; and he could not scruple to say, that if a house of commons could be so debauched *as to deny* the right stated in the resolution, it was out of their

own mouths conclusive evidence of the fact. He insisted that the claim of the catholics to that right, was directly within the spirit of the compact; and what have been the arguments advanced against the claim? One was an argument which, if founded in fact, would have some weight; it was that the catholics did not make the claim at all. Another argument was used which he thought had as little foundation in fact, and was very easy to be reconciled to the other; it was, that the catholics made their claim with insolence, and attempted to carry their object by intimidation. Let gentlemen take this fact if they please, in opposition to their own denial of it. The catholics then do make the demand; is their demand just? Is it just that they should be free? Is it just that they should have franchise? The justice is expressly admitted; why not give it then? The answer is, they demand it with insolence. Suppose that assertion, false as it is in fact, to be true, is it any argument with a public assembly, that any incivility of demand can cover the injustice of refusal. How low must that assembly be fallen, which can suggest as an apology for the refusal of an incontestible right the answer which a bankrupt buck might give to the demand of his tailor; he will not pay the bill, because, "the rascal had dared to threaten his honour." As another argument against their claims, their principles had been maligned; the experience of a century was the refutation of the aspersion. The articles of their faith had been opposed by the learned doctor to the validity of their claims. Can their religion, said he, be an objection, where a total absence of all religion, where atheism itself is none? The learned doctor, no doubt, thought he was praising the mercy with which they had been governed, when he dilated upon their poverty; but can poverty be an objection in an assembly, whose humble and christian condescension shut not its doors even against the common beggar? He had traduced some of them by name; "Mr. Byrne and Mr. Keogh, and four or five ruffians from the Liberty:" but, said Mr. Curran, this is something better than frenzy; this is something better than the want of mere feeling and decorum; there could not, perhaps, be a better way of evincing a further and more important want of the Irish nation, the want of a reformed representation of the people in parliament. For what can impress the necessity of it more strongly upon the justice, upon the humanity, the indigna-

tion, and the shame of an assembly of Irish gentlemen, than to find the people so stripped of all share in the representation, as that the most respectable class of our fellow-citizens, men who had acquired wealth upon the noblest principle, the practice of commercial industry and integrity, could be made the butts of such idle and unavailing, such shameful abuse, without the possibility of having an opportunity to vindicate themselves; when men of that class can be exposed to the degradation of unanswered calumny, or the more bitter degradation of eleemosynary defence?

Mr. Curran touched upon a variety of other topics, and concluded with the most forcible appeal to the minister, to the house, and to the country, upon the state of public affairs at home and abroad. He insisted that the measure was not, as it had been stated to be, a measure of mere internal policy; it was a measure that involved the question of right and wrong, of just and unjust: but it was more, it was a measure of the most absolute necessity, which could not be denied, and which could not safely be delayed. He could not, he said, foresee future events; he could not be appalled by the future, for he could not see it; but the present he could see, and he could not but see that it was big with danger; it might be the crisis of political life, or political extinction; it was a time fairly to state to the country, whether they had any thing, and what to fight for; whether they are to struggle for a connexion of tyranny, or of privilege; whether the administration of England will let us condescend to forgive the insolence of her happier days; or whether, as the beams of her prosperity have wasted and consumed us, so even the frosts of her adversity shall perform the deleterious effects of fire, and burn upon our privileges and our hopes for ever.

SPEECH OF MR. CURRAN,

IN BEHALF OF ARCHIBALD HAMILTON ROWAN, Esq. FOR A LIBEL* IN THE COURT OF KING'S BENCH, IRELAND.

ON THE 29TH OF JANUARY, 1794.

The Society of United Irishmen at Dublin, to the Volunteers of Ireland. William Drennan, Chairman; Archibald Hamilton Rowan, Secretary.

BE it remembered, that the right honourable Arthur Wolfe, attorney-general of our present sovereign lord the king, gives the court here to understand and be informed, that Archibald Hamilton Rowan, of the city of Dublin, Esq. being a person of a wicked and turbulent disposition, did on the sixteenth day of December, in the thirty-third year of the reign of our present sovereign lord George the third, publish a certain false, wicked, malicious, scandalous, and seditious libel, that is to say:

"CITIZEN SOLDIERS,—You first took up arms to protect your country from foreign enemies and from domestic disturbance; for the same purpose it now becomes necessary that you should resume them; a proclamation has been issued in England for embodying the militia, and a proclamation has been issued by the lord lieutenant and council in Ireland, for repressing all seditious associations. In consequence of both these proclamations it is reasonable to apprehend danger from abroad and danger at home; from whence but from apprehended dan-

* That the reader may better understand several passages of the following speech, an abstract of the information filed by the attorney-general against Mr. Rowan is prefixed.

ger are these menacing preparations for war drawn through the streets of this capital? for whence, if not to create that internal commotion which was not found, to shake that credit which was not affected, to blast that volunteer honour which was hitherto inviolate, are those terrible suggestions and rumours and whispers that meet us at every corner, and agitate at least our old men, our women, and our children: whatever be the motive, or from whatever quarter it arises, alarm has arisen; and you, volunteers of Ireland, are therefore summoned to arms at the instance of government, as well as by the responsibility attached to your character, and the permanent obligations of your institution. We will not at this day condescend to quote authorities for the right of having and of using arms, but we will cry aloud, even amidst the storm raised by the witchcraft of a proclamation, that to your formation was owing the peace and protection of this island, to your relaxation has been owing its relapse into impotence and insignificance, to your renovation must be owing its future freedom and its present tranquillity: you are therefore summoned to arms, in order to preserve your country in that guarded quiet which may secure it from external hostility, and to maintain that internal regimen throughout the land, which, superseding a notorious police or a suspected militia, may preserve the blessings of peace by a vigilant preparation for war.—Citizen soldiers, to arms! Take up the shield of freedom and the pledges of peace —peace, the motive and end of your virtuous institution—war, an occasional duty, ought never to be made an occupation; every man should become a soldier in the defence of his rights; no man ought to continue a soldier for offending the rights of others: the sacrifice of life in the service of our country is a duty much too honourable to be intrusted to mercenaries; and at this time, when your country has, by public authority, been declared in danger, we conjure you by your interest, your duty, and your glory, to stand to your arms, and in spite of a police, in spite of a fencible militia, in virtue of two proclamations, to maintain good order in your vicinage, and tranquillity in Ireland: it is only by the military array of men in whom they confide, whom they have been accustomed to revere as the guardians of domestic peace, the protectors of their liberties and lives, that the present agitation of the people can be stilled, that tu*mult and* licentiousness can be repressed, obedience secured to

existing law, and a calm confidence diffused through the public mind in the speedy resurrection of a free constitution, of liberty and of equality,—words which we use for an opportunity of repelling calumny, and of saying, that by liberty we never understood unlimited freedom, nor by equality the levelling of property or the destruction of subordination; this is a calumny invented by that faction, or that gang, which misrepresents the king to the people, and the people to the king, traduces one half of the nation to cajole the other, and by keeping up mistrust and division wishes to continue the proud arbitrators of the fortune and fate of Ireland: liberty is the exercise of all our rights, natural and political, secured to us and our posterity by a real representation of the people: and equality is the extension of the constituent to the fullest dimensions of the constitution, of the elective franchise to the whole body of the people, to the end that government, which is collective power, may be guided by collective will, and that legislation may originate from public reason, keep pace with public improvement, and terminate in public happiness. If our constitution be imperfect, nothing but a reform in representation will rectify its abuses; if it be perfect, nothing but the same reform will perpetuate its blessings. We now address you as citizens, for to be citizens you became soldiers, nor can we help wishing that all soldiers, partaking the passions and interests of the people, would remember, that they were once citizens, that seduction made them soldiers, but nature made them men. We address you without any authority save that of reason, and if we obtain the coincidence of public opinion, it is neither by force nor stratagem, for we have no power to terrify, no artifice to cajole, no fund to seduce; here we sit without mace or beadle, neither a mystery, nor a craft, nor a corporation; in four words lies all our power—universal emancipation and representative legislature—yet we are confident, that on the pivot of this principle, a convention, still less a society, still less a single man, will be able first to move and then to raise the world: we therefore wish for catholic emancipation without any modification, but still we consider this necessary enfranchisement as merely the portal to the temple of national freedom; wide as this entrance is, wide enough to admit three millions, it is narrow when compared to the capacity and comprehension of our beloved principle, which takes in every individual of the Irish nation, casts an equal eye

over the whole island, embraces all that think, and feels for all that suffer: the catholic cause is subordinate to our cause, and included in it; for, as united Irishmen, we adhere to no sect, but to society—to no cause, but christianity—to no party, but the whole people. In the sincerity of our souls do we desire catholic emancipation: but were it obtained to-morrow, to-morrow would we go on as we do to-day, in the pursuit of that reform, which would still be wanting to ratify their liberties as well as our own. For both these purposes it appears necessary that provincial conventions should assemble preparatory to the convention of the protestant people; the delegates of the catholic body are not justified in communicating with individuals or even bodies of inferior authority, and therefore an assembly of a similar nature and organization is necessary to establish an intercourse of sentiments, an uniformity of conduct, an united cause and an united nation; if a convention on the one part does not soon follow, and is not soon connected with that on the other, the common cause will split into the partial interest, the people will relapse into inattention and inertness, the union of affection and exertion, will dissolve, and too probably some local insurrections, instigated by the malignity of our common enemy, may commit the character, and risk the tranquillity of the island, which can be obviated only by the influence of an assembly arising from, assimilated with the people, and whose spirit may be, as it were, knit with the soul of the nation: unless the sense of the protestant people be on their part as fairly collected, and as judicially directed, unless individual exertion consolidates into collective strength, unless the particles unite into one mass; we may, perhaps, serve some person or some party for a little, but the public not at all: the nation is neither insolent, nor rebellious, nor seditious; while it knows its rights, it is unwilling to manifest its powers; it would rather supplicate administration to anticipate revolution by well-timed reform, and to save their country in mercy to themselves. The fifteenth of February approaches, a day ever memorable in the annals of the country as the birth-day of new Ireland: let parochial meetings be held as soon as possible, let each parish return delegates, let the sense of Ulster be again declared from Dungannon on a day auspicious to union, peace, and freedom. and the spirit of the North will again become the spirit of the nation. The civil assembly ought to claim the attendance of the

military associations; and we have addressed you, citizen soldiers, on this subject, from the belief, that your body, uniting conviction with zeal, and zeal with activity, may have much influence over your countrymen, your relations, and friends. We offer only a general outline to the public, and, meaning to address Ireland, presume not at present to fill up the plan, or pre-occupy the mode of its execution. We have thought it our duty to speak; answer us by actions; you have taken time for consideration; fourteen long years have elapsed since the rise of your associations; and in 1782 did you imagine that in 1792 this nation would still remain unrepresented? How many nations in this interval have gotten the start of Ireland? How many of your countrymen have sunk into the grave?"

A jury being sworn, the attorney-general stated the case on the part of the crown; the evidence being gone through on both sides,

Mr. Curran.—*Gentlemen of the Jury.*—When I consider the period at which this prosecution is brought forward; when I behold the extraordinary safe-guard of armed soldiers resorted to,* no doubt for the preservation of peace and order; when I catch, as I cannot but do, the throb of public anxiety which beats from one end to the other of this hall; when I reflect on what may be the fate of a man of the most beloved personal character, of one of the most respected families of our country, himself the only individual of that family, I may almost say of that country, who can look to that possible fate with unconcern? Feeling as I do all these impressions, it is in the honest simplicity of my heart I speak, when I say, that I never rose in a court of justice with so much embarrassment, as upon this occasion.

If, gentlemen, I could entertain a hope of finding refuge for the disconcertion of my mind in the perfect composure of yours; if I could suppose that those awful vicissitudes of human events, which have been stated or alluded to, could leave your judgments undisturbed and your hearts at ease, I know I should form a most erroneous opinion of your character: I entertain no such

* A few moments before Mr. Curran entered into his client's defence, a guard was brought into the court-house by the sheriff.

chimerical hope; I form no such unworthy opinion; I expect not that your hearts can be more at ease than my own; I have no right to expect it; but I have a right to call upon you in the name of your country, in the name of the living God, of whose eternal justice you are now administering that portion, which dwells with us on this side of the grave, to discharge your breasts, as far as you are able, of every bias of prejudice or passion; that, if my client be guilty of the offence charged upon him, you may give tranquillity to the public by a firm verdict of conviction; or, if he be innocent, by as firm a verdict of acquittal; and that you will do this in defiance of the paltry artifices and senseless clamours that have been resorted to, in order to bring him to his trial with anticipated conviction. And, gentlemen, I feel an additional necessity of thus conjuring you to be upon your guard, from the able and imposing statement, which you have just heard on the part of the prosecution. I know well the virtues and the talents of the excellent person who conducts that prosecution.* I know how much he would disdain to impose on you by the trappings of office; but I also know how easily we mistake the lodgment which character and eloquence can make upon our feelings, for those impressions that reason and fact and proof only ought to work upon our understandings.

Perhaps, gentlemen, I shall act not unwisely in waving any further observation of this sort, and giving your minds an opportunity of growing cool and resuming themselves, by coming to a calm and uncoloured statement of mere facts, premising only to you, that I have it in strictest injunction from my client, to defend him upon facts and evidence only, and to avail myself of no technical artifice or subtilty that could withdraw his cause from the test of that inquiry which it is your province to exercise, and to which only he wishes to be indebted for an acquittal.

In the month of December 1792, Mr. Rowan was arrested on an information, charging him with the offence for which he is now on his trial. He was taken before an honourable personage now on that bench, and admitted to bail.†

He remained a considerable time in this city, soliciting the present prosecution, and offering himself to a fair trial by a jury of his country; but it was not then thought fit to yield to that solicita-

* The late lord Kilwarden, then attorney-general.

† The honourable justice Downes.

tion; nor has it now been thought proper to prosecute him in the ordinary way, by sending up a bill of indictment to a grand jury.

I do not mean by this to say that informations *ex officio* are always oppressive or unjust; but I cannot but observe to you, that when a petty jury is called upon to try a charge not previously found by the grand inquest, and supported by the naked assertion only of the king's prosecutor, that the accusation labours under a weakness of probability which it is difficult to assist. If the charge had no cause of dreading the light—if it was likely to find the sanction of a grand jury, it is not easy to account why it deserted the more usual, the more popular, and the more constitutional mode, and preferred to come forward in the ungracious form of an *ex officio* information.

If such a bill had been sent up and found, Mr. Rowan would have been tried at the next commission; but a speedy trial was not the wish of his prosecutors. An information was filed, and when he expected to be tried upon it, an error, it seems, was discovered in the record. Mr. Rowan offered to waive it, or consent to any amendment desired. No—that proposal could not be accepted—a trial must have followed. That information, therefore, was withdrawn, and a new one filed: that is, in fact, a third prosecution was instituted upon the same charge. This last was filed on the 8th day of last July.

Gentlemen, these facts cannot fail of a due impression upon you. You will find a material part of your inquiry must be, whether Mr. Rowan is pursued as a criminal, or hunted down as a victim. It is not, therefore, by insinuation or circuity, but it is boldly and directly that I assert, that oppression has been intended and practised upon him, and by those facts which I have stated, I am warranted in the assertion.

His demand, his entreaty to be tried was refused,—and why? A hue and cry was to be raised against him; the sword was to be suspended over his head; some time was necessary for the public mind to become heated by the circulation of artful clamours of anarchy and rebellion; these same clamours, which with more probability, but not more success, had been circulated before through England and Scotland. In this country the causes and the swiftness of their progress were as obvious, as their folly has since become, to every man of the smallest observation: I have been stopped myself, with, "Good God, sir, have you heard the

news?" "No, sir, what?"—"Why one French emissary was seen travelling through Connaught in a post chaise, and scattering from the windows as he passed little doses of political poison, made up in square bits of paper—another was actually surprised in the fact of seducing our good people from their allegiance, by discourses upon the indivisibility of French robbery and massacre, which he preached in the French language to a congregation of Irish peasants."

Such are the bugbears and spectres to be raised to warrant the sacrifice of whatever little public spirit may remain amongst us.—But time has also detected the imposture of these Cock-lane apparitions, and you cannot now, with your eyes open, give a verdict without asking your consciences this question; is this a fair and honest prosecution?—is it brought forward with the single view of vindicating public justice, and promoting public good? And here let me remind you, that you are not convened to try the guilt of a libel, affecting the personal character of any private man: I know no case in which a jury ought to be more severe, than where personal calumny is conveyed through a vehicle, which ought to be consecrated to public information; neither on the other hand, can I conceive any case in which the firmness and the caution of a jury should be more exerted, than when a subject is prosecuted for a libel on the state. The peculiarity of the British constitution, (to which in its fullest extent we have an undoubted right, however distant we may be from the actual enjoyment) and in which it surpasses every known government in Europe, is this; that its only professed object is the general good, and its only foundation the general will; hence the people have a right acknowledged from time immemorial, fortified by a pile of statutes, and authenticated by a revolution that speaks louder than them all, to see whether abuses have been committed, and whether their properties and their liberties have been attended to as they ought to be.

This is a kind of subject which I feel myself overawed when I approach; there are certain fundamental principles which nothing but necessity should expose to public examination; they are pillars, the depth of whose foundation you cannot explore without endangering their strength; but let it be recollected that the discussion of such topics should not be condemned in me, nor visited upon my client: the blame, if any there be, should rest only

with those who have forced them into discussion. I say, therefore, it is the right of the people to keep an eternal watch upon the conduct of their rulers; and in order to that, the freedom of the press has been cherished by the law of England. In private defamation let it never be tolerated; in wicked and wanton aspersion upon a good and honest administration let it never be supported. Not that a good government can be exposed to danger by groundless accusation, but because a bad government is sure to find in the detected falsehood of a licentious press a security and a credit, which it could never otherwise obtain.

I said a good government cannot be endangered; I say so again, for whether it is good or bad it can never depend upon assertion: the question is decided by simple inspection: to try the tree, look at its fruit; to judge of the government, look at the people. What is the fruit of a good government? The virtue and happiness of the people. Do four millions of people in this country gather those fruits from that government, to whose injured purity, to whose spotless virtue and violated honour, this seditious and atrocious libeller is to be immolated upon the altar of the constitution? To you, gentlemen of the jury, who are bound by the most sacred obligation to your country and your God, to speak nothing but the truth, I put the question—Do the people of this country gather those fruits? Are they orderly, industrious, religious, and contented? Do you find them free from bigotry and ignorance, those inseparable concomitants of systematic oppression? Or to try them by a test as unerring as any of the former, are they united? The period has now elapsed in which considerations of this extent would have been deemed improper to a jury; happily for these countries, the legislature of each has lately changed, or, perhaps to speak more properly, revived and restored the law respecting trials of this kind. For the space of thirty or forty years a usage had prevailed in Westminster-hall, by which the judges assumed to themselves the decision of the question, whether libel or not; but the learned counsel for the prosecution are now obliged to admit that this is a question for the jury only to decide. You will naturally listen with respect to the opinion of the court, but you will receive it as matter of advice, not as matter of law; and you will give it credit, not from any adventitious circumstances of autho-

rity, but merely so far as it meets the concurrence of your own understandings.

Give me leave now to state to you the charge, as it stands upon the record:—It is, "that Mr. Rowan, being a person of a wicked and turbulent disposition, and maliciously designing and intending to excite and diffuse among the subjects of this realm of Ireland discontents, jealousies, and suspicions of our lord the king and his government, and disaffection and disloyalty to the person and government of our said lord the king, and to raise very dangerous seditions and tumults within this kingdom of Ireland, and to draw the government of this kingdom into great scandal, infamy, and disgrace, and to incite the subjects of our said lord the king to attempt, by force and violence and with arms, to make alterations in the government, state, and constitution of this kingdom, and to incite his majesty's said subjects to tumult and anarchy, and to overturn the established constitution of this kingdom, and to overawe and intimidate the legislature of this kingdom by an armed force;" did "maliciously and seditiously" publish the paper in question.

Gentlemen, without any observation of mine, you must see that this information contains a direct charge upon Mr. Rowan; namely, that he did, with the intents set forth in the information, publish this paper; so that here you have in fact two or three questions for your decision: first, the matter of fact of the publication; namely, did Mr. Rowan publish that paper? If Mr. Rowan did not in fact publish that paper, you have no longer any question on which to employ your minds: if you think that he was in fact the publisher, then and not till then arises the great and important subject to which your judgments must be directed. And that comes shortly and simply to this: Is the paper a libel? and did he publish it with the intent charged in the information? For whatever you may think of the abstract question, whether the paper be libellous or not, and of which paper it has not even been insinuated that he is the author, there can be no ground for a verdict against him, unless you also are persuaded that what he did was done with a criminal design.

I wish, gentlemen, to simplify and not to perplex; I therefore say again, if these three circumstances conspire, that he published it —that it was a libel—and that it was published with the purposes *alleged* in the information, you ought unquestionably to find him

guilty: if on the other hand, you do not find that all these circumstances concurred;—if you cannot upon your oaths say that he published it; if it be not in your opinion a libel;—and if he did not publish it with the intention alleged; I say, upon the failure of any one of these points, my client is entitled, in justice, and upon your oaths, to a verdict of acquittal.

Gentlemen, Mr. attorney-general has thought proper to direct your attention to the state and circumstances of public affairs at the time of this transaction; let me also make a few retrospective observations on a period, at which he has but slightly glanced; I speak of the events which took place before the close of the American war.

You know, gentlemen, that France had espoused the cause of America, and we became thereby engaged in a war with that nation.

Heu nescia mens hominum futuri!

Little did that ill-fated monarch know that he was forming the first causes of those disastrous events, that were to end in the subversion of his throne, in the slaughter of his family, and the deluging of his country with the blood of his people. You cannot but remember that, at a time when we had scarcely a regular soldier for our defence; when the old and young were alarmed and terrified with apprehensions of descent upon our coasts; that providence seemed to have worked a sort of miracle in our favour. You saw a band of armed men come forth at the great call of nature, of honour, and their country. You saw men of the greatest wealth and rank; you saw every class of the community give up its members, and send them armed into the field, to protect the public and private tranquillity of Ireland. It is impossible for any man to turn back to that period, without reviving those sentiments of tenderness and gratitude, which then beat in the public bosom: to recollect amidst what applause, what tears, what prayers, what benedictions, they walked forth amongst spectators, agitated by the mingled sensations of terror and of reliance, of danger and of protection, imploring the blessings of heaven upon their heads, and its conquests upon their swords. That illustrious, and adored, and *abused* body of men stood forward and assumed the title, which, I trust, the ingratitude of their country will never blot from its history, "THE VOLUNTEERS OF IRELAND."

Give me leave now, with great respect, to put this question to you: Do you think the assembling of that glorious band of patriots was an insurrection? do you think the invitation to that assembling would have been sedition? they came under no commission but the call of their country; unauthorized and unsanctioned, except by public emergency and public danger. I ask was that meeting insurrection or not? I put another question: If any man then had published a call on that body, and stated that war was declared against the state; that the regular troops were withdrawn; that our coasts were hovered round by the ships of the enemy; that the moment was approaching, when the unprotected feebleness of age and sex, when the sanctity of habitation would be disregarded and profaned by the brutal ferocity of a rude invader; if any man had then said to them, "Leave your industry for a while, that you may return to it again, and come forth in arms for the public defence." I put the question boldly to you. It is not the case of the volunteers of that day; it is the case of my client at this hour, which I put to you. Would that call have been then pronounced in a court of justice, or by a jury on their oaths, a criminal and seditious invitation to insurrection? If it would not have been so then, upon what principle can it be so now? What is the force and perfection of the law? It is the permanency of the law; it is, that whenever the fact is the same, the law is also the same; it is, that the law remains a written, monumented and recorded letter, to pronounce the same decision, upon the same facts whenever they shall arise. I will not affect to conceal it: you know there has been an artful, ungrateful, and blasphemous clamour raised against these illustrious characters, the saviours of the kingdom of Ireland. Having mentioned this, let me read a few words of the paper alleged to be criminal: "You first took up arms to protect your country from foreign enemies, and from domestic disturbance. For the same purposes it now becomes necessary that you should resume them."

I should be the last man in the world to impute any want of candour to the right honourable gentleman, who has stated the case on behalf of the prosecution: but he has certainly fallen into a mistake, which, if not explained, might be highly injurious to my client. He supposed that this publication was not addressed to those ancient volunteers, but to new combinations of them, *formed* upon new principles, and actuated by different motives.

You have the words to which this construction is imputed, upon the record; the meaning of his mind can be collected only from those words which he has made use of to convey it. The guilt imputable to him can only be inferred from the meaning ascribable to those words. Let his meaning then be fairly collected by resorting to them. Is there a foundation to suppose that this address was addressed to any such body of men, as has been called a banditti, (with what justice it is unnecessary to inquire,) and not to the old volunteers?

As to the sneer at the words *citizen soldiers*, I should feel that I was treating a very respected friend with an insidious and unmerited unkindness, if I affected to expose it by any gravity of refutation. I may, however, be permitted to observe, that those who are supposed to have disgraced this expression by adopting it, have taken it from the idea of the British constitution, "that no man in becoming a soldier ceases to be a citizen." Would to God, all enemies as they are, that that unfortunate people had borrowed more from that sacred source of liberty and virtue; and would to God, for the sake of humanity, that they had preserved even the little they did borrow! If ever there could be an objection to that appellation, it must have been strongest when it was first assumed.* To that period the writer manifestly alludes; he addresses "those who first took up arms:" "You first took up arms to protect your country from foreign enemies and from domestic disturbance. For the same purposes it now becomes necessary that you should resume them." Is this applicable to those who had never taken up arms before? "A proclamation," says this paper, "has been issued in England for embodying the militia, and a proclamation has been issued by the lord lieutenant and council of Ireland, for repressing all seditious associations. In consequence of both these proclamations, it is reasonable to apprehend danger from abroad, and danger at home." God help us! from the situation of Europe at that time, we were threatened with too probable danger from abroad, and I am afraid it was not without foundation we were told of our having something to dread at home.

I find much abuse has been lavished on the disrespect with

* In the resolutions and addresses of the old volunteers, at and prior to 1783, the terms *citizen soldiers*, and *citizen soldiery*, were no uncommon appellations.

which the proclamation is treated, in that part of the paper alleged to be a libel. To that my answer for my client is short: I do conceive it competent to a British subject, if he thinks that a proclamation has issued for the purpose of raising false terrors; I hold it to be not only the privilege, but the duty of a citizen, to set his countrymen right, with respect to such misrepresented danger; and until a proclamation in this country shall have the force of law, the reason and grounds of it are surely at least questionable by the people. Nay, I will go farther,—if an actual law had passed, receiving the sanction of the three estates, if it be exceptionable in any matter, it is warrantable to any man in the community to state, in a becoming manner, his ideas upon it. And I should be at a loss to know, if the positive laws of Great Britain are thus questionable, upon what ground the proclamation of an Irish government should not be open to the animadversion of Irish subjects.

"Whatever be the motive, or from whatever quarter it arises," says this paper, "alarm has arisen." Gentlemen, do you not know that to be fact? It has been stated by the attorney-general, and most truly, that the most gloomy apprehensions were entertained by the whole country. "You, volunteers of Ireland, are therefore summoned to arms at the instance of government, as well as by the responsibility attached to your character, and the permanent obligations of your institution." I am free to confess, if any man, assuming the liberties of a British subject to question public topics, should, under the mask of that privilege, publish a proclamation inviting the profligate and seditious, those in want, and those in despair, to rise up in arms to overawe the legislature, to rob us of whatever portion of the blessings of a free government we possess, I know of no offence involving greater enormity. But that, gentlemen, is the question you are to try. If my client acted with an honest mind and fair intention, and having, as he believed, the authority of government to support him in the idea that danger was to be apprehended, did apply to that body of so known and so revered character, calling upon them by their former honour, the principle of their glorious institution, and the great stake they possessed in their country.—If he interposed, not upon a fictitious pretext, but a real belief of actual and imminent danger, and that their arming at that *critical* moment was necessary to the safety of their country;

his intention was not only innocent, but highly meritorious. It is a question, gentlemen, upon which you only can decide; it is for you to say, whether it was criminal in the defendant to be so misled, and whether he is to fall a sacrifice to the prosecution of that government by which he was so deceived. I say again, gentlemen, you can look only to his words as the interpreter of his meaning; and to the state and circumstances of his country, as he was made to believe them, as the clue to his intention. The case then, gentlemen, is shortly and simply this: a man of the first family, and fortune, and character, and property among you reads a proclamation, stating the country to be in danger from abroad and at home; and thus alarmed—thus upon the authority of the prosecutor alarmed, applies to that august body, before whose awful presence sedition must vanish and insurrection disappear. You must surrender, I hesitate not to say, your oaths to unfounded assertion, if you can submit to say, that such an act, of such a man, so warranted, is a wicked and seditious libel. If he was a dupe, let me ask you who was the impostor? I blush and I shrink with shame and detestation from that meanness of dupery and servile complaisance, which could make that dupe a victim to the accusation of that impostor.

You perceive, gentlemen, that I am going into the merits of this publication, before I apply myself to the question which is first in order of time, namely, whether the publication, in point of fact, is to be ascribed to Mr. Rowan or not. I have been unintentionally led into this violation of order. I should effect no purpose of either brevity or clearness, by returning to the more methodical course of observation. I have been naturally drawn from it by the superior importance of the topic I am upon, namely, the merit of the publication in question.

This publication, if ascribed at all to Mr. Rowan, contains four distinct subjects: the first, the invitation to the volunteers to arm: upon that I have already observed: but those that remain are surely of much importance, and no doubt are prosecuted as equally criminal. The paper next states the necessity of a reform in parliament; it states, thirdly, the necessity of an emancipation of the catholic inhabitants of Ireland; and as necessary to the achievement of all these objects, does, fourthly, state the necessity of a general delegated convention of the people.

It has been alleged that Mr. Rowan intended by this publi-

cation to excite the subjects of this country to effect an alteration in the form of your constitution. And here, gentlemen, perhaps, you may not be unwilling to follow a little farther than Mr. Attorney-general has done, the idea of a late prosecution in Great Britain upon the subject of a public libel. It is with peculiar fondness I look to that country for solid principles of constitutional liberty and judicial example. You have been pressed in no small degree with the manner in which this publication marks the different orders of our constitution, and comments upon them. Let me show you what boldness of animadversion on such topics, is thought justifiable in the British nation, and by a British jury. I have in my hand the report of the trial of the printers of the Morning Chronicle, for a supposed libel against the state, and of their acquittal: let me read to you some passages from that publication, which a jury of Englishmen were in vain called upon to brand with the name of libel.

"Claiming it as our indefeasible right to associate together, in a peaceable and friendly manner, for the communication of thoughts, the formation of opinions, and to promote the general happiness, we think it unnecessary to offer any apology for inviting you to join us in this manly and benevolent pursuit; the necessity of the inhabitants of every community endeavouring to procure a true knowledge of their rights, their duties, and their interests, will not be denied, except by those who are the slaves of prejudice, or interested in the continuation of abuses. As men who wish to aspire to the title of freemen, we totally deny the wisdom and the humanity of the advice, to approach the defects of government with 'pious awe and trembling solicitude.' What better doctrine could the pope or the tyrants of Europe desire? We think, therefore, that the cause of truth and justice can never be hurt by temperate and honest discussions; and that cause which will not bear such a scrutiny, must be systematically or practically bad. We are sensible that those who are not friends to the general good have attempted to inflame the public mind with the cry of 'Danger,' whenever men have associated for discussing the principles of government; and we have little doubt but such conduct will be pursued in this place; we would therefore caution every honest man, who has really the welfare of the nation at heart, to avoid being led away by the prostituted *clamours* of those who live on the sources of corruption. We

pity the fears of the timorous, and we are totally unconcerned respecting the false alarms of the venal.—

—"We view with concern the frequency of wars.—We are persuaded that the interests of the poor can never be promoted by accession of territory, when bought at the expense of their labour and blood; and we must say, in the language of a celebrated author—'We, who are only the people, but who pay for wars with our substance and our blood, will not cease to tell kings,' or governments, 'that to them alone wars are profitable; that the true and just conquests are those which each makes at home, by comforting the peasantry, by promoting agriculture and manufactories, by multiplying men and the other productions of nature; that then it is that kings may call themselves the image of God, whose will is perpetually directed to the creation of new beings. If they continue to make us fight and kill one another in uniform, we will continue to write and speak, until nations shall be cured of this folly.'—We are certain our present heavy burthens are owing, in a great measure, to cruel and impolitic wars, and therefore we will do all on our part, as peaceable citizens who have the good of the community at heart, to enlighten each other, and protest against them.

"The present state of the representation of the people calls for the particular attention of every man who has humanity sufficient to feel for the honour and happiness of his country; to the defects and corruptions of which, we are inclined to attribute unnecessary wars, &c. &c. We think it a deplorable case when the poor must support a corruption which is calculated to oppress them; when the labourer must give his money to afford the means of preventing him having a voice in its disposal; when the lower classes may say—'We give you our money, for which we have toiled and sweat, and which would save our families from cold and hunger; but we think it more hard that there is nobody whom we have delegated, to see that it is not improperly and wickedly spent; we have none to watch over our interests; the rich only are represented.'—

"—An equal and uncorrupt representation would, we are persuaded, save us from heavy expenses, and deliver us from many oppressions; we will therefore do our duty to procure this reform, which appears to us of the utmost importance.

"In short, we see, with the most lively concern, an army of

placemen, pensioners, &c. fighting in the cause of corruption and prejudice, and spreading the contagion far and wide.—

"—We see with equal sensibility the present outcry against reforms, and a proclamation (tending to cramp the liberty of the press, and discredit the true friends of the people,) receiving the support of numbers of our countrymen.—

"We see burthens multiplied—the lower classes sinking into poverty, disgrace, and excesses, and the means of those shocking abuses increased for the purposes of revenue.—

"—We ask ourselves—'Are we in England?'—Have our forefathers fought, bled, and conquered for liberty? And did they not think that the fruits of their patriotism would be more abundant in peace, plenty and happiness?—

"—Is the condition of the poor never to be improved? Great Britain must have arrived at the highest degree of national happiness and prosperity, and our situation must be too good to be mended, or the present outcry against reforms and improvements is human and criminal. But we hope our condition will be speedily improved, and to obtain so desirable a good is the object of our present association and union, founded on principles of benevolence and humanity; disclaiming all connexion with riots and disorder, but firm in our purpose, and warm in our affections for liberty.

"Lastly,—We invite the friends of freedom throughout Great Britain to form similar societies, and to act with unanimity and firmness, till the people be too wise to be imposed upon; and their influence in the government be commensurate with their dignity and importance:

"THEN SHALL WE BE FREE AND HAPPY."

Such, gentlemen, is the language which a subject of Great Britain thinks himself warranted to hold, and upon such language has the corroborating sanction of a British jury been stamped by a verdict of acquittal. Such was the honest and manly freedom of publication, in a country, too, where the complaint of abuses has not half the foundation it has here. I said I loved to look to England for principles of judicial example; I cannot but say to you, that it depends on your spirit, whether I shall look to it hereafter with sympathy or with shame. Be pleased, now, *gentlemen*, to consider whether the statement of the imperfection

in your representation has been made with a desire of inflaming an attack upon the public tranquillity, or with an honest purpose of procuring a remedy for an actually existing grievance.

It is impossible not to revert to the situation of the times; and let me remind you, that whatever observations of this kind I am compelled thus to make in a court of justice, the uttering of them in this place is not imputable to my client, but to the necessity of defence imposed upon him by this extraordinary prosecution.

Gentlemen, the representation of our people is the vital principle of their political existence; without it they are dead, or they live only to servitude; without it there are two estates acting upon and against the third, instead of acting in co-operation with it; without it, if the people are oppressed by their judges, where is the tribunal to which their judges can be amenable? without it, if they are trampled upon and plundered by a minister, where is the tribunal to which the offender shall be amenable? without it, where is the ear to hear, or the heart to feel, or the hand to redress their sufferings? Shall they be found, let me ask you, in the accursed bands of imps and minions that bask in their disgrace, and fatten upon their spoils, and flourish upon their ruin? But let me not put this to you as a merely speculative question. It is a plain question of fact: rely upon it, physical man is every where the same; it is only the various operation of moral causes that gives variety to the social or individual character and condition. How otherwise happens it, that modern slavery looks quietly at the despot, on the very spot where Leonidas expired? The answer is, Sparta has not changed her climate, but she has lost that government which her liberty could not survive.

I call you, therefore, to the plain question of fact. This paper recommends a reform in parliament: I put that question to your consciences; do you think it needs that reform? I put it boldly and fairly to you—do you think the people of Ireland are represented as they ought to be?—Do you hesitate for an answer? If you do let me remind you, that until the last year three millions of your countrymen have by the express letter of the law been excluded from the reality of actual, and even from the phantom of virtual representation. Shall we then be told that this is only the affirmation of a wicked and seditious incendiary? If you do not feel the mockery of such a charge, look at your

country; in what state do you find it? Is it in a state of tranquillity and general satisfaction? These are traces by which good are ever to be distinguished from bad governments, without any very minute inquiry or speculative refinement?—Do you feel that a veneration for the law, a pious and humble attachment to the constitution, form the political morality of your people? Do you find that comfort and competency among your people, which is always to be found where a government is mild and moderate; where taxes are imposed by a body, who have an interest in treating the poorer orders with compassion, and preventing the weight of taxation from pressing sore upon them?

Gentlemen, I mean not to impeach the state of your representation, I am not saying that it is defective, or that it ought to be altered or amended; nor is this a place for me to say, whether I think that three millions of the inhabitants of a country, whose whole number is but four, ought to be admitted to any efficient situation in the state. It may be said, and truly, that these are not questions for either of us directly to decide; but you cannot refuse them some passing consideration at least, when you remember that on this subject the real question for your decision is, whether the allegation of a defect in your constitution is so utterly unfounded and false, that you can ascribe it only to the malice and perverseness of a wicked mind, and not to the innocent mistake of an ordinary understanding;—whether it may not be mistake; whether it can be only sedition.

And here, gentlemen, I own I cannot but regret, that one of our countrymen should be criminally pursued for asserting the necessity of a reform, at the very moment, when that necessity seems admitted by the parliament itself; that this unhappy reform shall at the same moment be a subject of legislative discussion, and criminal prosecution. Far am I from imputing any sinister design to the virtue or wisdom of our government; but who can avoid feeling the deplorable impression that must be made on the public mind, when the demand for that reform is answered by a criminal information!

I am the more forcibly impressed by this consideration, when I consider, that when this information was first put on the file, the subject was transiently mentioned in the house of commons. Some circumstances retarded the progress of the inquiry there, and the progress of the information was equally retarded here. The

first day of this session, you all know, that subject was again brought forward in the house of commons, and, as if they had slept together, this prosecution was also revived in the court of king's-bench; and that before a jury, taken from a panel partly composed of those very members of parliament, who, in the house of commons, must debate upon this subject as a measure of public advantage, which they are here called upon to consider as a public crime.*

This paper, gentlemen, insists upon the necessity of emancipating the catholics of Ireland, and that is charged as a part of the libel. If they had waited another year, if they had kept this prosecution impending for another year, how much would remain for a jury to decide upon, I should be at a loss to discover. It seems as if the progress of public information was eating away the ground of the prosecution. Since the commencement of the prosecution, this part of the libel has unluckily received the sanction of the legislature. In that interval our catholic brethren have obtained that admission, which it seems it was a libel to propose; in what way to account for this, I am really at a loss. Have any alarms been occasioned by the emancipation of our catholic brethren? has the bigoted malignity of any individuals been crushed? or has the stability of the government, or that of the country been weakened? or is one million of subjects stronger than four millions? Do you think that the benefit they received should be poisoned by the sting of vengeance? If you think so, you must say to them, "you have demanded emancipation and you have got it; but we abhor your persons, we are outraged at your success, and we will stigmatize, by a criminal prosecution, the adviser of that relief which you have obtained from the voice of your country." I ask you, do you think, as honest men, anxious for the public tranquillity, conscious that there are wounds not yet completely cicatrized, that you ought to speak this language at this time, to men who are too much disposed to think that in this very emancipation they have been saved from their own parliament by the humanity of their sovereign? Or do you wish to prepare them for the revocation of these improvident concessions? Do you think it wise or humane at this moment to insult them, by sticking up in a pillory the

* Among the names on the panel were several members of parliament.

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* Among the names on the panel were several members of parliament.

man who dared to stand forth as their advocate? I put it to your oaths; do you think that a blessing of that kind, that a victory obtained by justice over bigotry and oppression, should have a stigma cast upon it by an ignominious sentence upon men bold and honest enough to propose that measure? to propose the redeeming of religion from the abuses of the church, the reclaiming of three millions of men from bondage, and giving liberty to all who had a right to demand it; giving, I say, in the so much censured words of this paper, giving "UNIVERSAL EMANCIPATION!" I speak in the spirit of the British law, which makes liberty commensurate with and inseparable from British soil; which proclaims even to the stranger and the sojourner, the moment he sets his foot upon British earth, that the ground on which he treads is holy, and consecrated by the genius of UNIVERSAL EMANCIPATION. No matter in what language his doom may have been pronounced;—no matter what complexion incompatible with freedom, an Indian or an African sun may have burnt upon him;—no matter in what disastrous battle his liberty may have been cloven down;—no matter with what solemnities he may have been devoted upon the altar of slavery; the first moment he touches the sacred soil of Britain, the altar and the god sink together in the dust; his soul walks abroad in her own majesty; his body swells beyond the measure of his chains, that burst from around him, and he stands redeemed, regenerated, and disenthralled, by the irresistible Genius of UNIVERSAL EMANCIPATION.

[*Here Mr. Curran was interrupted by a sudden burst of applause from the court and hall, which was repeated for a considerable length of time: silence being at length restored, he proceeded.*]

Gentlemen, I am not such a fool as to ascribe any effusion of this sort to any merits of mine. It is the mighty theme, and not the inconsiderable advocate, that can excite interest in the hearer! What you hear is but the testimony which nature bears to her own character; it is the effusion of her gratitude to that power, which stampt that character upon her.

And, permit me to say, that if my client had occasion to defend his cause by any mad or drunken appeals to extravagance or licentiousness, I trust in God I stand in that situation, that, humble as I am, he would not have resorted to me to be his advocate. I was not recommended to his choice by any connexion of principle or party, or even private friendship; and saying this, I cannot

but add, that I consider not to be acquainted with such a man as Mr Rowan, a want of personal good fortune. But upon this great subject of reform and emancipation, there is a latitude and boldness of remark, justifiable in the people, and necessary to the defence of Mr. Rowan, for which the habits of professional studies, and technical adherence to established forms, have rendered me unfit. It is, however, my duty, standing here as his advocate, to make some few observations to you, which I conceive to be material.

Gentlemen, you are sitting in a country which has a right to the British constitution, and which is bound by an indissoluble union with the British nation. If you were now even at liberty to debate upon that subject; if you even were not by the most solemn compacts, founded upon the authority of your ancestors and of yourselves, bound to that alliance, and had an election now to make; in the present unhappy state of Europe, if you had been heretofore a stranger to Great Britain, you would now say, we will enter into society and union with you;

Una salus ambobus erit, commune periculum.

But to accomplish that union, let me tell you, you must learn to become like the English people. It is in vain to say, you will protect their freedom, if you abandon your own. The pillar whose base has no foundation, can give no support to the dome under which its head is placed; and if you profess to give England that assistance which you refuse to yourselves, she will laugh at your folly, and despise your meanness and insincerity. Let us follow this a little further: I know you will interpret what I say with the candour in which it is spoken. England is marked by a natural avarice of freedom, which she is studious to engross and accumulate, but most unwilling to impart; whether from any necessity of her policy, or from her weakness, or from her pride, I will not presume to say; but so is the fact; you need not look to the east, nor to the west, you need only look to yourselves.

In order to confirm this observation, I would appeal to what fell from the learned counsel for the crown, "that notwithstanding the alliance subsisting for two centuries past between the two countries, the date of liberty in one goes no farther back than the year 1784."

If it required additional confirmation, I should state the case of the invaded American, and the subjugated Indian, to prove,

that the policy of England has ever been to govern her connexions more as colonies than as allies; and it must be owing to the great spirit indeed of Ireland, if she shall continue free. Rely upon it, she will ever have to hold her course against an adverse current; rely upon it, if the popular spring does not continue strong and elastic, a short interval of debilitated nerve and broken force, will send you down the stream again, and reconsign you to the condition of a province.

If such should become the fate of your constitution, ask yourselves what must be the motive of your government? It is easier to govern a province by faction, than to govern a co-ordinate country by co-ordinate means. I do not say it is now, but it will be always thought easiest by the managers of the day, to govern the Irish nation by the agency of such a faction, as long as this country shall be found willing to let her connexion with Great Britain be preserved only by her own degradation. In such a precarious and wretched state of things, if it shall ever be found to exist, the true friend of Irish liberty, and British connexion, will see, that the only means of saving both must be, as Lord Chatham expressed it, "the infusion of new health and blood into the constitution." He will see how deep a stake each country has in the liberty of the other; he will see what a bulwark he adds to the common cause, by giving England a co-ordinate, and co-interested ally, instead of an oppressed, enfeebled, and suspected dependant; he will see how grossly the credulity of Britain is abused, by those who make her believe that her interest is promoted by our depression; he will see the desperate precipice to which she approaches by such conduct, and with an animated and generous piety, he will labour to avert her danger.

But, gentlemen of the jury, what is like to be his fate? The interest of the sovereign must be for ever the interest of his people; because his interest lives beyond his life:—it must live in his fame, it must live in the tenderness of his solicitude for an unborn posterity;—it must live in that heart-attaching bond by which millions of men have united the destinies of themselves and their children with his, and call him by the endearing appellation of KING AND FATHER OF HIS PEOPLE.

But what can be the interest of such a government as I have *described*? Not the interest of the king, not the interest of the

people; but the sordid interest of the hour; the interest in deceiving the one, and in oppressing and defaming the other: the interest of unpunished rapine and unmerited favour: that odious and abject interest, that prompts them to extinguish public spirit in punishment or in bribe, and to pursue every man, even to death, who has sense to see, and integrity and firmness enough to abhor and to oppose them. What, therefore, I say, will be the fate of the man, who embarks in an enterprise of so much difficulty and danger? I will not answer it.—Upon that hazard has my client put every thing that can be dear to man;—his fame, his fortune, his person, his liberty, and his children; but with what event, your verdict only can answer; and to that I refer your country.

There is a fourth point remaining. Says this paper, "For both these purposes, it appears necessary, that provincial conventions should assemble, preparatory to the convention of the protestant people. The delegates of the catholic body are not justified in communicating with individuals, or even bodies of inferior authority, and therefore an assembly of a similar nature and organization is necessary to establish an intercourse of sentiment, an uniformity of conduct, an united cause, and an united nation. If a convention on the one part does not soon follow, and is not soon connected with that on the other, the common cause will split into the partial interest; the people will relax into inattention and inertness, the union of affection and exertion will dissolve, and too probably some local insurrection, instigated by the malignity of our common enemy, may commit the character, and risque the tranquillity of the island; which can be obviated only by the influence of an assembly arising from, and assimilated with, the people, and whose spirit may be, as it were, knit with the soul of the nation: unless the sense of the protestant people be on their part as fairly collected, and as judiciously directed, unless individual exertion consolidates into collective strength, unless the particles unite into one mass, we may perhaps serve some person or some party for a little, but the public not at all: the nation is neither insolent, nor rebellious, nor seditious; while it knows its rights, it is unwilling to manifest its powers; it would rather supplicate administration to anticipate revolution by well timed reform, and to save their country in mercy to themselves."

Gentlemen, it is with something more than common reverence,

it is with a species of terror, that I am obliged to tread this ground.—But what is the idea, put in the strongest point of view? —We are willing not to manifest our powers, but to supplicate administration, to anticipate revolution, that the legislature may save the country in mercy to itself.

Let me suggest to you, gentlemen, that there are some circumstances, which have happened in the history of this country, that may better serve as a comment upon this part of the case than any I can make. I am not bound to defend Mr. Rowan as to the truth or wisdom of the opinions he may have formed. But if he did really conceive the situation of the country such, as that the not redressing her grievances might lead to a convulsion, and of such an opinion not even Mr. Rowan is answerable here for the wisdom, much less shall I insinuate any idea of my own upon so awful a subject; but if he did so conceive the fact to be, and acted from the fair and honest suggestion of a mind anxious for the public good, I must confess, gentlemen, I do not know in what part of the British constitution to find the principle of his criminality.

But, be pleased further to consider, that he cannot be understood to put the fact on which he argues, on the authority of his assertion. The condition of Ireland was as open to the observation of every other man, as to that of Mr. Rowan; what then does this part of the publication amount to? In my mind, simply to this: The nature of oppression in all countries is such, that, although it may be borne to a certain degree, it cannot be borne beyond that degree. You find that exemplified in Great Britain; you find the people of England patient to a certain point, but patient no longer. That infatuated monarch, James II., experienced this. The time did come, when the measure of popular sufferings and popular patience was full; when a single drop was sufficient to make the waters of bitterness to overflow. I think this measure in Ireland is brimful at present; I think the state of the representation of the people in parliament is a grievance; I think the utter exclusion of three millions of people is a grievance of that kind that the people are not likely long to endure, and the continuation of which may plunge the country into that state of despair, which wrongs, exasperated by perseverance, never fail to produce. But to whom is even this language addressed? Not to the body of the people, on whose temper and

moderation, if once excited, perhaps not much confidence could be placed; but to that authoritative body, whose influence and power would have restrained the excesses of the irritable and tumultuous; and for that purpose expressly does this publication address the volunteers. We are told that we are in danger;—I call upon you, the great constitutional saviours of Ireland, to defend the country to which you have given political existence, and to use whatever sanction your great name, your sacred character, and the weight you have in the community, must give you to repress wicked designs, if any there are. We feel ourselves strong. The people are always strong; the public chains can only be rivetted by the public hands. Look to those devoted regions of southern despotism; behold the expiring victim on his knees, presenting the javelin reeking with his blood to the ferocious monster who returns it into his heart. Call not that monster the tyrant: he is no more than the executioner of that inhuman tyranny, which the people practise upon themselves, and of which he is only reserved to be a later victim than the wretch he has sent before. Look to a nearer country, where the sanguinary characters are more legible; whence you almost hear the groans of death and torture. Do you ascribe the rapine and murder in France to the few names that we are execrating here? or do you not see that it is the phrenzy of an infuriated multitude abusing its own strength, and practising those hideous abominations upon itself. Against the violence of this strength, let your virtue and influence be our safeguard.

What criminality, gentlemen of the jury, can you find in this? what at any time? but I ask you, peculiarly at this momentous period, what guilt can you find in it? My client saw the scene of horror and blood which covers almost the face of Europe: he feared that causes, which he thought similar, might produce similar effects, and he seeks to avert those dangers by calling the united virtue and tried moderation of the country into a state of strength and vigilance. Yet this is the conduct which the prosecution of this day seeks to punish and stigmatize; and this is the language for which this paper is reprobated to-day, as tending to turn the hearts of the people against their sovereign, and inviting them to overturn the constitution.

Let us now, gentlemen, consider the concluding part of this publication. It recommends a meeting of the people to deliberate

on constitutional methods of redressing grievances. Upon this subject I am inclined to suspect that I have in my youth taken up crude ideas, not founded, perhaps, in law; but I did imagine, that when the bill of rights restored the right of petitioning for the redress of grievances, it was understood that the people might boldly state among themselves that grievances did exist; I did imagine it was understood that the people might lawfully assemble themselves in such manner as they might deem most orderly and decorous. I thought I had collected it from the greatest luminaries of the law. The power of petitioning seemed to me to imply the right of assembling for the purpose of deliberation. The law requiring a petition to be presented by a limited number, seemed to me to admit that the petition might be prepared by any number whatever, provided, in doing so, they did not commit any breach or violation of the public peace. I know that there has been a law passed in the Irish parliament of last year, which may bring my former opinion into a merited want of authority. The law declares that no body of men may delegate a power to any smaller number, to act, think, or petition for them. If that law had not passed I should have thought that the assembling by a delegate convention was recommended, in order to avoid the tumult and disorder of a promiscuous assembly of the whole mass of the people. I should have conceived before that act, that any law to abridge the orderly appointment of the few to consult for the interest of the many, and thus force the many to consult by themselves, or not at all, would in fact be a law not to restrain but to promote insurrection. But that law has spoken, and my error must stand corrected.

Of this, however, let me remind you, you are to try this part of the publication by what the law was then, not by what it is now. How was it understood until last session of parliament? You had both in England and Ireland, for the last ten years, these delegated meetings. The volunteers of Ireland, in 1783, met by delegation: they framed a plan of parliamentary reform; they presented it to the representative wisdom of the nation; it was not received; but no man ever dreamed that it was not the undoubted right of the subject to assemble in that manner. They assembled by delegation at Dungannon, and to show the idea then entertained of the legality of their public conduct, that same *body of* volunteers was thanked by both houses of parliament,

and their delegates most graciously received at the throne. The other day, you had delegated representatives of the catholics of Ireland, publicly elected by the members of that persuasion, and sitting in convention in the heart of your capital, carrying on an actual treaty with the existing government, and under the eye of your own parliament, which was then assembled; you have seen the delegates from that convention carry the complaints of their grievances to the foot of the throne; from whence they brought back to that convention the auspicious tidings of that redress which they had been refused at home.

Such, gentlemen, have been the means of popular communication and discussion, which until the last session have been deemed legal in this country; as happily for the sister kingdom, they are yet considered there.

I do not complain of this act as any infraction of popular liberty; I should not think it becoming in me to express any complaint against a law, when once become such. I observe only, that one mode of popular deliberation is thereby taken utterly away, and you are reduced to a situation in which you never stood before. You are living in a country, where the constitution is rightly stated to be only ten years old; where the people have not the ordinary rudiments of education. It is a melancholy story, that the lower orders of the people here have less means of being enlightened than the same class of people in any other country. If there be no means left by which public measures can be canvassed, what will be the consequence? Where the press is free, and discussion unrestrained, the mind, by the collision of intercourse, gets rid of its own asperities, a sort of insensible perspiration takes place in the body politic, by which those acrimonies, which would otherwise fester and inflame, are quietly dissolved and dissipated. But now, if any aggregate assembly shall meet, they are censured; if a printer publishes their resolutions, he is punished. Rightly to be sure in both cases, for it has been lately done. If the people say, let us not create tumult, but meet in delegation, they cannot do it; if they are anxious to promote parliamentary reform in that way, they cannot do it; the law of the last session has for the first time declared such meetings to be a crime. What then remains? The liberty of the press ONLY; that sacred palladium, which no influence. no power, no minister, no government, which nothing but the de-

pravity, or folly, or corruption of a jury, can ever destroy.—And what calamities are the people saved from by having public communication left open to them? I will tell you, gentlemen, what they are saved from, and what the government is saved from! I will tell you also to what both are exposed by shutting up that communication. In one case sedition speaks aloud, and walks abroad; the demagogue goes forth; the public eye is upon him; he frets his busy hour upon the stage; but soon either weariness, or bribe, or punishment, or disappointment bear him down, or drive him off, and he appears no more. In the other case, how does the work of sedition go forward? Night after night the muffled rebel steals forth in the dark, and casts another and another brand upon the pile, to which, when the hour of fatal maturity shall arrive, he will apply the flame. If you doubt of the horrid consequences of suppressing the effusion even of individual discontent, look to those enslaved countries where the protection of despotism is supposed to be secured by such restraints. Even the person of the despot there is never in safety. Neither the fears of the despot, nor the machinations of the slave have any slumber, the one anticipating the moment of peril, the other watching the opportunity of aggression. The fatal crisis is equally a surprise upon both; the decisive instant is precipitated without warning by folly on the one side, or by phrensy on the other, and there is no notice of the treason till the traitor acts. In those unfortunate countries (one cannot read it without horror) there are officers, whose province it is, to have the water, which is to be drunk by their rulers, sealed up in bottles, lest some wretched miscreant should throw poison into the draught.

But, gentlemen, if you wish for a nearer and more interesting example, you have it in the history of your own revolution; you have it at that memorable period, when the monarch found a servile acquiescence in the ministers of his folly; when the liberty of the press was trodden under foot; when venal sheriffs returned packed juries to carry into effect those fatal conspiracies of the few against the many; when the devoted benches of public justice were filled by some of those foundlings of fortune, who, overwhelmed in the torrent of corruption at an early period, lay at the bottom like drowned bodies, while soundness or sanity remained in them; but at length, becoming buoyant by putre*faction*, they rose as they rotted, and floated to the surface of

the polluted stream, where they were drifted along, the object of terror, and contagion, and abomination.

In that awful moment of a nation's travail, of the last gasp of tyranny, and the first breath of freedom, how pregnant is the example? The press extinguished, the people enslaved, and the prince undone. As the advocate of society, therefore, of peace, of domestic liberty, and the lasting union of the two countries, I conjure you to guard the liberty of the press, that great centinel of the state, that grand detector of public imposture: guard it, because, when it sinks, there sinks with it, in one common grave, the liberty of the subject, and the security of the crown.

Gentlemen, I am glad that this question has not been brought forward earlier; I rejoice for the sake of the court, of the jury, and of the public repose, that this question has not been brought forward till now. In Great Britain analagous circumstances have taken place. At the commencement of that unfortunate war which has deluged Europe with blood, the spirit of the English people was tremblingly alive to the terror of French principles; at that moment of general paroxysm, to accuse was to convict. The danger looked larger to the public eye, from the misty region through which it was surveyed. We measure inaccessible heights by the shadows which they project, where the lowness and the distance of the light form the length of the shade.

There is a sort of aspiring and adventurous credulity, which disdains assenting to obvious truths, and delights in catching at the improbability of circumstances, as its best ground of faith. To what other cause, gentlemen, can you ascribe that in the wise, the reflecting, and the philosophic nation of Great Britain, a printer has been gravely found guilty of a libel, for publishing those resolutions to which the present minister of that kingdom had actually subscribed his name? To what other cause can you ascribe, what in my mind is still more astonishing, in such a country as Scotland—a nation cast in the happy medium between the spiritless acquiescence of submissive poverty, and the sturdy credulity of pampered wealth; cool and ardent; adventurous and persevering; winging her eagle flight against the blaze of every science, with an eye that never winks, and a wing that never tires; crowned as she is with the spoils of every art, and decked with the wreath of every muse, from the deep and scrutinizing

researches of her Hume, to the sweet and simple, but not less sublime and pathetic morality of her Burns—how, from the bosom of a country like that, genius, and character, and talents, should be banished to a distant barbarous soil;* condemned to pine under the horrid communion of vulgar vice and base-born profligacy, for twice the period that ordinary calculation gives to the continuance of human life?

But I will not further press any idea that is painful to me, and I am sure must be painful to you: I will only say, you have now an example, of which neither England nor Scotland had the advantage; you have the example of the panic, the infatuation, and the contrition of both. It is now for you to decide, whether you will profit by their experience of idle panic and idle regret, or whether you meanly prefer to palliate a servile imitation of their frailty, by a paltry affectation of their repentance. It is now for you to show, that you are not carried away by the same hectic delusions to acts, of which no tears can wash away the fatal consequences, or the indelible reproach.

Gentlemen, I have been warning you by instances of public intellect suspended or obscured; let me rather excite you by the example of that intellect recovered and restored. In that case which Mr. Attorney-general has cited himself, I mean that of the trial of Lambert in England, is there a topic of invective against constituted authorities; is there a topic of abuse against every department of British government, that you do not find in the most glowing and unqualified terms in that publication, for which the printer of it was prosecuted, and acquitted by an English jury? See, too, what a difference there is between the case of a man publishing his own opinion of facts, thinking that he is bound by duty to hazard the promulgation of them, and without the remotest hope of any personal advantage, and that of a man who makes publication his trade. And saying this, let me not be misunderstood. It is not my province to enter into any abstract defence of the opinions of any man upon public subjects. I do not affirmatively state to you that these grievances, which this paper supposes, do in fact exist: yet I cannot but say, that the movers of this prosecution have forced this question upon you. Their motives and their merits, like those of all ac-

* Mr. Curran alludes to the sentence of transportation passed in Scotland upon *Mr. Muir, &c. &c.*

cusers, are put in issue before you; and I need not tell you how strongly the motive and merits of any informer ought to influence the fate of his accusation.

I agree most implicitly with Mr. Attorney-general, that nothing can be more criminal than an attempt to work a change in the government by armed force: and I entreat that the court will not suffer any expression of mine to be considered as giving encouragement or defence to any design to excite disaffection, to overawe or to overturn the government. But I put my client's case upon another ground:—if he was led into an opinion of grievances where there were none; if he thought there ought to be a reform where none was necessary, he is answerable only for his intention. He can be answerable to you in the same way only that he is answerable to that God, before whom the accuser, the accused, and the judge must appear together; that is, not for the clearness of his understanding, but for the purity of his heart.

Gentlemen, Mr. Attorney-general has said, that Mr. Rowan did by this publication (supposing it to be his) recommend, under the name of equality, a general, indiscriminate assumption of public rule by every the meanest person in the state. Low as we are in point of public information, there is not, I believe, any man, who thinks for a moment, that does not know, that all which the great body of the people, of any country, can have from any government, is a fair encouragement to their industry, and protection for the fruits of their labour. And there is scarcely any man, I believe, who does not know, that if a people could become so silly as to abandon their stations in society, under pretence of governing themselves, they would become the dupes and the victims of their own folly. But does this publication recommend any such infatuated abandonment, or any such desperate assumption? I will read the words which relate to that subject; "By liberty, we never understood unlimited freedom; nor by equality, the levelling of property, or the destruction of subordination." I ask you, with what justice, upon what principle of common sense, you can charge a man with the publication of sentiments, the very reverse of what his words avow? and that, when there is no collateral evidence, where there is no foundation whatever, save those very words, by which his meaning can be ascertained? or if you adopt an arbitrary principle of imputing to him *your* meaning instead of his own, what publication can

be guiltless or safe? It is a sort of accusation that I am ashamed and sorry to see introduced in a court acting on the principles of the British constitution.

In the bitterness of reproach it was said, "Out of thine own mouth will I condemn thee;" from the severity of justice I demand no more. See if in the words that have been spoken, you can find matter to acquit, or to condemn: "By liberty, we never understood unlimited freedom; nor by equality, the levelling of property, or the destruction of subordination.—This is a calumny invented by that faction, or that gang, which misrepresents the king to the people, and the people to the king, traduces one half of the nation to cajole the other, and, by keeping up distrust and division, wish to continue the proud arbitrators of the fortune and fate of Ireland." Here you find that meaning disclaimed as a calumny, which is artfully imputed as a crime.

I say, therefore, gentlemen of the jury, as to the four parts into which the publication must be divided, I answer thus. It calls upon the volunteers. Consider the time, the danger, the authority of the prosecutors themselves, for believing that danger to exist; the high character, the known moderation, the approved loyalty of that venerable institution; the similarity of the circumstances between the period at which they were summoned to take arms, and that in which they had been called upon to reassume them. Upon this simple ground, gentlemen, you will decide, whether this part of the publication was libellous and criminal, or not.

As to reform, I could wish to have said nothing upon it: I believe I have said enough: if Mr. Rowan, in disclosing that opinion, thought the state required it, he acted like an honest man. For the rectitude of the opinion he was not answerable; he discharged his duty in telling the country that he thought so.

As to the emancipation of the catholics, I cannot but say that Mr. Attorney-general did very wisely in keeping clear of that subject. Yet, gentlemen, I need not tell you how important a figure it was intended to make upon the scene; though, from unlucky accidents, it has become necessary to expunge it during the rehearsal.*

Of the concluding part of this publication, the convention which it recommends, I have spoken already. I wish not to

* Between the period of the publication and prosecution, the legislature had, by the *recommendation* of the crown, removed the principal grievances of the catholic code.

trouble you with saying more upon it. I feel that I have already trespassed much upon your patience. In truth, upon a subject embracing such a variety of topics, a rigid observance either of conciseness or arrangement, could perhaps scarcely be expected. It is, however, with pleasure I feel I am drawing to a close, and that only one question remains, to which I would beg your attention.

Whatever, gentlemen, may be your opinion of the meaning of this publication, there yet remains a great point for you to decide upon; namely, whether, in point of fact, this publication be imputable to Mr. Rowan, or not? whether he did publish it, or not? Two witnesses are called to that fact: one of the name of Lyster, and the other of the name of Morton. You must have observed that Morton gave no evidence upon which that paper could have even been read; he produced no paper, he identified no paper; he said that he got some paper, but that he had given it away. So that, in point of law, there was no evidence given by him, on which it could have gone to a jury; and therefore, it turns entirely upon the evidence of the other witness. He has stated that he went to a public meeting, in a place where there was a gallery crowded with spectators; and that he there got a printed paper, the same which has been read to you. I know you are well acquainted with the fact, that the credit of every witness must be considered by, and rest with, the jury. They are the sovereign judges of that, and I will not insult your feelings, by insisting on the caution with which you should watch the testimony of a witness that seeks to affect the liberty, or property, or character of your fellow citizens. Under what circumstances does this evidence come before you? The witness says, he has got a commission in the army, by the interest of a lady, from a person then high in administration. He told you that he made a memorandum upon the back of that paper, it being his general custom, when he got such papers, to make an indorsement upon them; that he did this from mere fancy; that he had no intention of giving any evidence on the subject; he "took it with no such view." There is something whimsical enough in this curious story. Put his credit upon the positive evidence adduced to his character. Who he is I know not; I know not the man, but his credit is impeached. Mr. Blake was called; he said he knew him. I asked him, Do you think, sir, that Mr. Lyster is, or is not a man deserving credit upon his oath?—If you find a verdict of

conviction, it can be only upon the credit of Mr. Lyster. What said Mr. Blake? Did he tell you that he considered him a man to be believed upon his oath? He did not attempt to say that he did. The best he could say was, that he "would hesitate." Do you believe Blake? Have you the same opinion of Lyster's testimony that Mr. Blake has? Do you know Lyster? If you do know him, and know that he is credible, your knowledge should not be shaken by the doubts of any man. But if you do not know him, you must take his credit from an unimpeached witness, swearing that he would hesitate to believe him. In my mind, there is a circumstance of the strongest nature, that came out from Lyster, on the table. I am aware that a most respectable man, if impeached by surprise, may not be prepared to repel a wanton calumny by contrary testimony: but was Lyster unapprised of this attack upon him? What said he? "I knew that you had Blake to examine against me; you have brought him here for that purpose." He knew the very witness that was to be produced against him; he knew that his credit was impeached, and yet he produced no person to support that credit.—What said Mr. Smyth? "From my knowledge of him, I would not believe him upon his oath."

But what said Mrs. Hatchwell? Was the production of that witness a surprise upon Mr. Lyster? Her cross examination shows the fact to be the contrary. The learned counsel, you see, was perfectly apprised of a chain of private circumstances, to which he pointed his questions; this lady's daughter was married to the elder brother of the witness Lyster. Did he know these circumstances by inspiration? no; they could come only from Lyster himself. I insist, therefore, that the gentleman knew his character was to be impeached, his counsel knew it, and not a single witness has been produced to support it. Then consider, gentlemen, upon what ground can you find a verdict of conviction against my client, when the only witness produced to the fact of publication is impeached, without even an attempt to defend his character. Many hundreds, he said, were at that meeting. Why not produce one of them to swear to the fact of such a meeting? One he has ventured to name, but he was certainly very safe in naming a person, who he has told you is not in the kingdom, and could not therefore be called to confront him.

Gentlemen, let me suggest another observation or two, if still

you have any doubt as to the guilt or innocence of the defendant. Give me leave to suggest to you, what circumstances you ought to consider, in order to found your verdict. You should consider the character of the person accused; and in this your task is easy. I will venture to say, there is not a man in this nation more known than the gentleman who is the subject of this prosecution, not only by the part he has taken in public concerns, and which he has taken in common with many; but still more so, by that extraordinary sympathy for human affliction, which, I am sorry to think, he shares with so small a number. There is not a day that you hear the cries of your starving manufacturers in your streets, that you do not also see the advocate of their sufferings—that you do not see his honest and manly figure, with uncovered head, soliciting for their relief; searching the frozen heart of charity, for every string that can be touched by compassion, and urging the force of every argument and every motive, save that which his modesty suppresses—the authority of his own generous example. Or if you see him not there, you may trace his steps to the private abode of disease, and famine, and despair; the messenger of heaven, bringing with him food, and medicine, and consolation. Are these the materials of which you suppose anarchy, and public rapine to be formed? Is this the man, on whom to fasten the abominable charge of goading on a frantic populace to mutiny and bloodshed? Is this the man likely to apostatize from every principle that can bind him to the state; his birth, his property, his education, his character, and his children? Let me tell you, gentlemen of the jury, if you agree with his prosecutors, in thinking that there ought to be a sacrifice of such a man, on such an occasion, and upon the credit of such evidence, you are to convict him—never did you, never can you give a sentence, consigning any man to public punishment with less danger to his person or to his fame: for where could the hireling be found to fling contumely or ingratitude at his head, whose private distresses he had not laboured to alleviate, or whose public condition he had not laboured to improve?

I cannot, however, avoid adverting to a circumstance that distinguishes the case of Mr. Rowan from that of the late sacrifice in a neighbouring kingdom.*

* SCOTLAND, from whence Mr. Muir, Palmer, and others were transported for sedition.

The severer law of that country, it seems, and happy for them that it should, enables them to remove from their sight the victim of their infatuation. The more merciful spirit of our law deprives you of that consolation; his sufferings must remain for ever before your eyes, a continual call upon your shame and your remorse. But those sufferings will do more; they will not rest satisfied with your unavailing contrition; they will challenge the great and paramount inquest of society: the man will be weighed against the charge, the witness, and the sentence; and impartial justice will demand, Why has an Irish jury done this deed? The moment he ceases to be regarded as a criminal, he becomes of necessity an accuser: and let me ask you, what can your most zealous defenders be prepared to answer to such a charge? When your sentence shall have sent him forth to that stage, which guilt alone can render infamous, let me tell you, he will not be like a little statue upon a mighty pedestal, diminishing by elevation; but he will stand a striking and imposing object upon a monument, which, if it does not (and it cannot) record the atrocity of his crime, must record the atrocity of his conviction. Upon this subject, therefore, credit me when I say, that I am still more anxious for you, than I can possibly be for him. I cannot but feel the peculiarity of your situation. Not the jury of his own choice, which the law of England allows, but which ours refuses; collected in that box by a person certainly no friend to Mr. Rowan, certainly not very deeply interested in giving him a very impartial jury. Feeling this, as I am persuaded you do, you cannot be surprized, however you may be distressed, at the mournful presage, with which an anxious public is led to fear the worst from your possible determination. But I will not, for the justice and honour of our common country, suffer my mind to be borne away by such melancholy anticipation. I will not relinquish the confidence that this day will be the period of his sufferings; and, however mercilessly he has been hitherto pursued, that your verdict will send him home to the arms of his family, and the wishes of his country. But if, which heaven forbid, it hath still been unfortunately determined, that because he has not bent to power and authority, because he would not bow down before the golden calf and worship it, he is to be bound and cast into the furnace; I do trust in God, that there is a re*deeming* spirit in the constitution, which will be seen to walk

with the sufferer through the flames, and to preserve him unhurt by the conflagration.

[*Upon the conclusion of this speech, Mr. Curran was again, for many minutes, loudly applauded by the auditors; and upon leaving the court, was drawn home by the populace, who took the horses from his carriage.*]

COURT OF KING'S BENCH,

TUESDAY, FEBRUARY 4th, 1794.

THE Recorder applied to set aside the verdict given in the case of Archibald Hamilton Rowan, Esq. His application was grounded upon different affidavits sworn in court, charging, 1st. One of the JURORS *with a declaration against Mr. Rowan, previous to trial.*—2dly. *Partiality in one of the* HIGH SHERIFFS.—3rdly. That John Lyster, *the* PRINCIPAL EVIDENCE, *was not to be believed upon his oath, he,* as the affidavits stated, *having been guilty of perjury.*—And 4thly, the learned gentleman rested his case upon the *misdirection of the court.* He was followed on the same side by Mr. Curran, who said:

It was an early idea, that a verdict in a criminal case could not be set aside *inconsulto rege;* but the law had stood otherwise, without a doubt to impeach its principle, for the last two reigns.

Common sense would say, that the discretion of the court should go at least as far in criminal as in civil cases; and very often to go no further, would be to stop far short of what was right; as in those great questions where the prosecution may be considered either as an attempt to extinguish liberty, or as a necessary measure for the purpose of repressing the virulence of public licentiousness and dangerous faction; where there can be no alternative between guilt or martyrdom, where the party prosecuted must either be considered as a culprit sinking beneath the punishment of his own crimes, or a victim sacrificed to the vices of others. But when it clearly appears that the party has fallen a prey to persecuting combination, there remains but one melancholy question, *how far did that combination reach?*

There have been two cases lately decided in this very court, the king and Pentland, where the motion was made and refused and the king and Bowen, where it was granted; both of which show, that captious sophistry, and technical pedantry, had here,

as well as in England, given way to liberal and rational inquiry: and that the court would not now, in their discretion, refuse a motion of this kind, unless they could, at the same time, lay their hands upon their hearts, and say, they believed in their consciences that justice had been done: such was the manly language of one of their lordships, (Mr. justice Downes;) and such the opinion of the court on a former occasion.

He then cited 7 modern 57. as referred to in Bacon tit. Trial, to show, that where there was good ground of challenge to a juror, not known at the trial, it was sufficient cause for setting aside the verdict.

In England they have a particular act of parliament, entitling the party to strike a special jury to try the fact, and then he has time between the striking and the trial, to question the propriety of that jury: here my client had no previous information, till the instant of trial, who his jurors were to be.

There are certain indulgences granted at times, perhaps by the connivance of humanity, which men, who are not entitled to demand them in an open court, obtain nevertheless by sidelong means; and perhaps the little breach which affords that light to the mind of the man accused, is a circumstance which the court would feel pain, even if called upon, to say, should in all cases be prevented: but to overturn principles and authorities, for the purpose of oppressing the subject, is what this court will never do.

The first of the affidavits I shall consider, is that of the traverser. I do not recollect whether it states the sheriff, in avowed terms, to be an emissary or a hireling agent of the castle, therefore do not state it from the affidavit: but he swears, that he does believe that he did labour to bring into the box a jury full of prejudices, and of the blackest impressions; instead of having, as they ought, fair and impartial minds, and souls like white paper.

This sheriff now stands in court; he might have denied it if he would; he had an opportunity of answering it; but he has certainly left it an undenied assertion.—He was not certainly obliged to answer it, for no man is bound to convict himself. But there is a part of that charge which amounts at least to this, "Your heart was poisoned against me, and you collected those to be my *judges*, who, if they could not be under the dominion of bad dis-

positions, might be at least the dupes of good." The most favourable thing that can be said is this, You sought to bring against me honest prejudices, but you brought against me wicked ones. The very general charge, that he sought for persons who he knew were most likely to bring prejudices with them into the jury box, is a part of the affidavit that it was incumbent on him to answer if he could.

I do not contend, that what is charged in the affidavit would have been a ground of principal challenge to the array; but hold it to be the better opinion, that a challenge to the array for favour, does well lie in the mouth of the defendant.

The ancient notion was, you shall not challenge the array for favour where the king is a party; the king only can challenge for favour; for the principle was that every man ought to be favourable to the crown; but, thank God, the advancement of legal knowledge, and the growing understanding of the age, have dissipated such illiberal and mischievous conceptions.

But I am putting too much stress upon such technical, discarded, and antiquated scruples. The true question has been already stated from the authority of Mr. Justice Downes, and that question is, Has justice been done?

It is a matter upon which scarce any understanding would condescend to hesitate, whether a man had been fairly tried, whose triers had been collected together by an avowed enemy, whose conduct had been such, as to leave no doubt that he had purposely brought prejudiced men into the box.

In every country, where freedom obtains, there must subsist parties. In this country and Great Britain, I trust there never will be a time when there shall not be men found zealous for the actual government of the day. So, on the other hand, I trust, there will never be a time, when there will not be found men zealous and enthusiastic in the cause of popular freedom and of the public rights. If, therefore, a person in public office suffers his own prejudices, however honestly anxious he may be for a prosecution carried on by those to whom he is attached, to influence him so far as to choose men, to his knowledge, devoted to principles he espouses, it is an error which a high court of judicature, seeking to do right justice, will not fail to correct.

A sheriff, in such a case, might not have perceived the partiality of his conduct, because he was surveying through the me-

dium of prejudice and habitual corruption: but it is impossible to think that this sheriff meant to be impartial; it is an interpretation more favourable than his conduct will allow of; if he deserves any credit at all, it is for not answering the charge made against him: at the same time, that, by not answering it, he has left unimpeached the credit of the charge itself.

[*Here the sheriff tendered some form of an affidavit, which the court refused to have sworn or read, for the same reasons that those, sworn and tendered by the defendant's counsel, had been before refused. Mr. Curran, however, consented to its being sworn and read; but the attorney-general declined it, being unacquainted with the contents, and uninstructed as to its tendency; it therefore was not sworn.*]

Mr. Curran.—Is this then the way to meet a fair application to the court, to see whether justice has been done between the subject and the crown? I offer it again; let the affidavit be read. And let me remind the court, that the great reason for sending a cause back to a jury is, that new light may be shed upon it: and how must your lordships feel, when you see that indulgence granted to the conscience of the jury, denied to the court?

Mr. Attorney General.—I am concerned that any lawyer should make a proposition in the manner Mr. Curran has done; he proposes to have an affadavit read, provided we consent that others, which the court have already refused, should be now read.* I did not hear it offered; but is it to be presumed I will consent to have an affidavit read, about which I know nothing? Yesterday, without any communication with a human being, I did say, that I conceived it unnecessary to answer any of the affidavits, thinking that they were not sufficient to ground the application made to the court. And is it presumed I am so mad as to consent to the reading of affidavits which I have not seen?

[Here some altercation took place, and lord Clonmel, chief justice, interposed, saying, that the counsel had certainly a right to argue it upon the ground, that the sheriff was biassed, and did return a jury prejudiced against the traverser.]

Mr. Curran was then proceeding to observe upon the expression of one of the jury, sworn to in another affidavit, "that there

* It may not be improper to observe, that Mr. Attorney-general mistook Mr. Curran's proposal, which was an *unqualified* offer to have Mr. Giffard's affidavit read.

would be no safety in the country, until the defendant was either hanged or banished." When it was asked by the court, whether the time of its coming to the knowledge of the traverser, that the sheriff was biassed, was stated in his affidavit?

Mr. Curran answered, he was in prison, and could not have the attendance of those counsel, whose assistance he had in court; and besides, from the nature of the circumstances, it was impossible he could have been sufficiently apprised of its consequences, for he saw not that pannel till the day of his trial, when he could not have had time to make any inquiry into the characters, dispositions, or connections of the jury. Mr. Curran then reverted to his argument on the expression of the juror.

If triers had been appointed to determine the issue, favourable or not, what would have been their finding? Could they say upon their oaths, that he was not unfavourable to that party against whom he could make such a declaration?

Favour is not cause of principal challenge, which, if put upon a pleading, would conclude the party. Favour is that which makes the man, in vulgar parlance, unfit to try the question. And as to the time these facts came to his knowledge, he has sworn that he was utterly ignorant of them at the time of his coming into court to take his trial.

I will not glance at the character of any absent noble person, high in office; but let it be remembered, that it is a government prosecution, and that the witness has, from a low and handicap situation, scraped himself into preferment; perhaps, for I will put the best construction upon it, by offering himself as a man honestly anxious for the welfare of his country; in short, it is too obvious to require any comment, what the nature of the whole transaction has been; that he had got his commission as a compensation, *pro labore impendendo*, and came afterwards into court to pay down the stipulated purchase.

Had this, then, been an unbiassed jury, was there not something in all these circumstances, that might have afforded more deliberation than that of one minute per man, for only so long was the jury out; and had this been a fair witness, would he have lain down under a charge, which, if true, ought not only to damn this verdict, but his character for ever? What would a corps of brother officers think of a person charged, upon oath, with the commission of two wilful perjuries, and that charge re-

maining undenied? Here is an undenied charge, in point of fact; and although I do not call upon the court to say, that this is a guilty and abominable person, yet surely the suspicion is strongly so, and must be considered. This was at least a verdict, where the evidence went to the jury under slighter blemishes than it will if my client has the advantage of another trial; for then he will put out of the power of man, to doubt that this witness has been perjured. This witness, who has had notice, both here and at the trial, of the aspersions on his character, and yet has not called a human being to say that he entertained a contrary opinion of him.

Was he known any where? Did he crawl unobserved to the castle? Was it without the aid or knowledge of any body, that that gaudy plumage grew on him, in which he appeared in court? If he was known for any thing else than what he is stated to be, it was, upon that day, almost a physical impossibility, in a court-house which almost contained the country, not to have found some person, to give some sort of testimony respecting his general character. For though no man is bound to be ready at all times to answer particular charges, yet every man is supposed to come with his public attestation of common and general probity. But he has left that character, upon the merits of which my client is convicted, unsupported, even by his own poor corporal swearing. You are called upon, then, to say, whether upon the evidence of a being of this kind, such a man as that is to be convicted, and sentenced to punishment, in a country where humanity is the leading feature even of the criminal law.

He then observed upon the second witness.—A man coming to support the credit of another collaterally, is himself particularly pledged; then what was his testimony? He did not know whether Mr. Giffard was concerned in the newspaper! And now, you have the silence of Giffard himself in not answering Mr. Rowan's affidavit to contradict that. And next, he did not know whether his own cousin-german was the relation of their common uncle! I call upon you, my lords, in the name of sacred justice, and your country, to declare whether the melancholy scenes and murderous plots of the Meal-tub and the Rye-house are to be acted over again. And whether every Titus Oates that can be found, is to be called into your courts, as the common vouchee of base and perjured accusation.

He then proceeded to another ground, namely, that the direction of the court was not, as he conceived, agreeable to the law of Ireland. The defence of my client (he added) was rested upon this, that there was no evidence of the fact of publication, upon the incredibility of the fact, and the circumstances of discredit in the character of the witness; yet the court made this observation: "gentlemen, it scarcely lies in the mouth of Mr. Rowan to build a defence upon objections of this kind to the characters of witnesses, because the fact was public; there were many there; the room was crowded below; the gallery was crowded above; and the publicity of the fact enabled him to produce a number of witnesses to falsify the assertion of the prosecutor, if in fact it could be falsified!"—Is that the principle of criminal law? Is it a part of the British law that the fate of the accused shall abide, not the positive establishment of guilt by the prosecutor, but the negative proof of innocence by himself? Why has it been said in foolish old books, that the law supposes the innocence of every man until the contrary is proved? How has it happened that that language has been admired for its humanity, and not laughed at for its absurdity, in which the prayers of the court are addressed to heaven for the safe deliverance of the man accused? How comes it that so much public time is wasted in going into evidence of guilt, if the bare accusation of a man did call upon him to go into evidence of his innocence? The force of this observation is this: Mr. Rowan impeaches the credit of a witness, who has sworn that he saw him present, and doing certain acts at a certain meeting; but it is asked, has he substantiated that discredit, by calling all the persons who were present, to prove his absence from that meeting, which is only stated to have existed by a witness whom he alleges to have perjured himself? I call upon the example of judicial character; upon the faith of that high office which is never so dignified as when it sees its errors and corrects them, to say, that the court was for a moment led away, so as to argue from the most seductive of all sophisms, that of the *positio principii.*

See what meaning is to be gathered from such words: we say, the whole that this man has sworn is a consummate lie; show it to be so, says the court, by admitting a part of it to be true. It is a false swearing; it is a conspiracy of two witnesses against this defendant; well then, it lies upon him to rebut their testi-

mony, by proving a great deal of it to be true! Is conjecture then, in criminal cases, to stand in the place of truth and demonstration? Why were not some of those—(I will strip the case of the honour of names which I respect)—but why were not some of those, who knew that these two persons were to be brought forward, and that there were to be objections to their credit—if, as it is stated, it happened in the presence of a public crowd rushing in from motives of curiosity, why were not numbers called on to establish that fact? On the contrary the court have said to this effect: Mr. Rowan, you say you were not there; produce any of those persons with whom you were there, to swear you were not there! You say it was a perjury; if so, produce the people that he has perjured himself in swearing to have been there! But as to your own being there, you can easily show the contrary of that, by producing some man you saw there! You say you were not there? Yes. There were one hundred and fifty persons there; now produce any one of those to swear they saw you there!

It is impossible for the human mind to suppose a case, in which infatuation must have prevailed in a more progressive degree, than when a jury are thus, in fact, directed to receive no refutation nor proof of the perjury of the witness, but only of his truth. We will permit you to deny the charge by establishing the fact: we will permit you to prove that they swore falsely to your being there, by producing another witness to prove to a certainty that you were not there.—[Interrupted by lord Clonmell.]

Lord Clonmell, *chief justice.*—The reasoning of the court was strong upon that point: this is a transaction stated by the witness to have happened in open day, in a crowded assembly in the capital, amidst a number of persons dressed in the uniform of Hamilton Rowan. There has been nothing suddenly brought forward to surprise the traverser; yet what has he done? did he offer, as is the common course, to prove an alibi? It is stated to be at such a day; the witness swears at such an hour—the place is sworn to have been full of people, of Mr. Rowan's friends: but if there was even a partial assembly, it would be easy still to produce some one of those persons who were present to say, that the fact did not happen which has been sworn to, or if you say Mr. Rowan was not there, it is easier still to prove it by

showing where he was; as thus: I breakfasted with him, I dined with him, I supped with him, he was with me, he was not at Pardon's; disprove that assertion by proving an affirmation inconsistent with it.

Mr. Curran.—I beg leave to remind the court of what fell from it. "He may call," said the court, "any of those persons; he has not produced one of them;" upon this, I think, a most material point does hang. "He might have called them, for they were all of his own party."

Lord Clonmell.—That is, if there were such persons there; or if there was no meeting at all, he might have proved that.

Mr. Curran.—There was no such idea put to the jury, as whether there was a meeting or not: it was said they were all of his party; he might have produced them, and the non-production of them, was a "volume of evidence" upon that point. No refinement can avoid this conclusion, that even as your lordship now states the charge, the fate of the man must depend upon proving the negative.

Until the credit of the witness was established, he could not be called upon to bring any contrary evidence. What does the duty of every counsel dictate to him, if the case is not made out by his adversary or prosecutor? Let it rest; the court is bound to tell the jury so, and the jury are bound to find him not guilty. It is a most unshaken maxim, that *nemo tenetur prodere se ipsum.* And it would be indeed a very inquisitorial exercise of power, to call upon a man to run the risk of confirming the charge, under the penalty of being convicted by *nil dicit.* Surely at the criminal side of this court, as yet, there has been no such judgment pronounced. It is only when the party stands mute of malice, that such extremes can be resorted to. I never before heard an intimation from any judge to a jury, that bad evidence, liable to any and every exception, ought to receive a sanction from the silence of the party. The substance of the charge was neither more nor less than this: that the falsehood of the evidence shall receive support and credit from the silence of the man accused. With anxiety for the honour and religion of the law, I demand it of you, must not the jury have understood that this silence was evidence, to go to them? is the meaning contained in the expression "a volume of evidence," only insinuation? I do not know where any man could be safe; I do not know what any man

could do to screen himself from prosecution; I know not how he could be sure, even when he was at his prayers before the throne of Heaven, that he was not passing that moment of his life, on which he was to be charged with the commission of some crime, to be expiated to society by the forfeiture of his liberty or of his life; I do not know what shall become of the subject, if a jury are to be told that the silence of the man charged, is a "volume of evidence" that he is guilty of the crime. Where is it written? I know there is a place where vulgar frenzy cries out, that the public instrument must be drenched in blood, where defence is gagged, and the devoted wretch must perish. But even there the victim of such tyranny is not made to fill, by voluntary silence, the defects of his accusation; for his tongue is tied, and therefore no advantage is taken of him by construction; it cannot be there said that his not speaking is a volume of evidence to prove his guilt.

But to avoid all misunderstanding, see what is the force of my objection: is it that the charge of the court cannot receive a practicable interpretation, that may not terrify men's minds with ideas such as I have presented? No—I am saying no such thing: I have lived too long, and observed too much, not to know, that every word in a phrase is one of the feet upon which it runs; and how the shortening or lengthening of one of those feet, will alter the progress or direction of its motion. I am not arguing that the charge of the court cannot, by any possibility, be reconciled to the principles of law; I am agitating a bigger question; I am putting it to the conscience of the court, whether a jury may not have probably collected the same meaning from it, which I have affixed to it; and whether there ought not to have been a volume of explanation, to do away the fatal consequences of such mistake.

On what sort of a case am I now speaking? on one of that kind, which it is known has been beating the public heart for many months; which from a single being in society has scarcely received a cool or tranquil examination. I am making that sort of application, which the expansion of liberal reason, and the decay of technical bigotry, have made a favoured application.

In earlier times it might have been thought sacrilege to have *meddled* with a verdict once pronounced; since that, the true

principles of justice have been better understood; so that now, the whole wisdom of the whole court will have an opportunity of looking over that verdict, and setting right the mistake which has occasioned it.

Mr. Curran made other observations, either to corroborate his own, or to answer the opposite counsel, of which it is impossible to give an exact detail, and concluded: "You are standing on the scanty isthmus that divides the great ocean of duration; on one side, of the past, on the other, of the future: a ground, that while you yet hear me, is washed from beneath our feet. Let me remind you, my lords, while your determination is yet in your power, *dum versatur adhuc intra penetralia Vestæ*, that on that ocean of future you must set your judgment afloat. And future ages will assume the same authority, which you have assumed; posterity feel the same emotions which you have felt, when your little hearts have beaten, and your infant eyes have overflowed, at reading the sad history of the sufferings of a Russel, or a Sidney.

[*The conclusion of Mr. Curran's speech was marked by another burst of applause, similar to those which accompanied his former exertions in this cause.*]

The application to set aside the verdict was refused by the court; and Mr. Rowan was sentenced to pay a fine of 500*l.*, *to be imprisoned two years, and to find security for good behaviour, himself in* 2000*l.*, *and two sureties in* 1000*l. each.*

SPEECH OF MR. CURRAN,

IN DEFENCE OF MR. PATRICK FINNEY,

JANUARY 16th, 1798.

ABSTRACT OF THE INDICTMENT.

FIRST count. "That Patrick Finney, yeoman, on the thirteenth day of April, in the thirty-seventh year of the king, and divers other days, at the city of Dublin, being a false traitor, did compass and imagine the death of our said lord, the king, and did traitorously and feloniously intend our said lord, the king, to kill, murder, and put to death."

The overt acts laid, were as follow: "1. Adhering to the persons exercising the powers of government in France, in case they should invade, or cause to be invaded, this kingdom of Ireland, they being enemies to the king, and at war.—2. That the conspirators aforesaid did meet, &c., confer, consult, and deliberate, about adhering to the persons exercising the powers of government in France.—3. Adhering to the persons exercising the powers of government in France.—4. Conspiring that one or more persons should be sent into France, to excite an invasion of Ireland.—5. Conspiring that one or more persons should be sent into France, to excite an invasion of this kingdom, and to make war therein; and for that purpose did ask, levy, and receive, &c. from other traitors, money, to wit, from each 20l. to defray the expenses of the persons to be sent.—6. That conspiring, &c. they did send into France four persons unknown, to excite the persons exercising the powers of government in France, to invade this kingdom, and make war therein.—7. Conspiring to send, and sending four persons into France to persuade invasion, and to aid them in invading, and raising, and making war; and Finney, then and there, demanding and receiving money, viz. 20l., to defray the *charges* of said persons.—8. That said Patrick Finney became an

United Irishman, for the purpose of assisting the persons exercising the powers of government in France, and, being met, to the number of forty-eight other traitors, did divide into four splits, which each contained twelve traitors, and each split did then choose one to be secretary, to consult on behalf thereof with other splits, under the denomination of baronial meetings, for the purpose of adhering and making war, in case of an invasion of Ireland from France, and then and there conspiring an attack upon the castle of Dublin, &c. and to deprive his majesty of the stores and ammunition therein; and said Finney, to facilitate such attack, did advise and commend other traitors to view White's court, &c. and give their opinion to their several splits, so that their secretaries might report the same to their baronial meetings.—9. Adhering to the persons exercising the powers of government in France, &c. and with forty-eight other conspirators, divided into four splits, each containing twelve, each split choosing a secretary, to confer for the purpose of adhering to the enemy in case of invasion, and confederating and agreeing that a violent attack should be made on the ordnance stores, &c.—10. Consulting, &c. to procure an invasion.—11. Consulting to raise insurrection, rebellion, and war, in case of invasion of Ireland or Great Britain from France.—12. Conspiring to assist the persons exercising the powers of government in France, in case of their invading this realm, with ships and arms."

There was a second count, for "adhering to the king's enemies within the realm," and in support of this count, the overt acts laid, were exactly the same as those above recited.

A jury being sworn, the attorney-general stated the case on the part of the crown; the evidence being gone through on both sides—

Mr. Curran.—*My Lords and Gentlemen of the Jury,* In the early part of this trial, I thought I would have had to address you on the most important occasion possible at this side of the grave, a man labouring for life, on the casual strength of an exhausted, and at best, a feeble advocate. But, gentlemen, do not imagine that I rise under any such impressions—do not imagine that I approach you, sinking under the hopeless difficulties of my cause.—I am not now soliciting your indulgence to the inadequancy of my powers, or artfully enlisting your passions at the side of my client.—No! gentlemen, but I rise with what

of law, of conscience, of justice, and of constitution, there exists within this realm at my back; and, standing in front of that great and powerful alliance, I DEMAND a verdict of acquittal for my client!—What is the opposition of evidence! It is a tissue which requires no strength to break through; it vanishes at the touch, and is sundered into tatters.

The right honourable gentleman who stated the case in the first stage of this trial, has been so kind as to express a reliance, that the counsel for the prisoner would address the jury with the same candour which he exemplified on the part of the crown; readily and confidently do I accept the compliment, the more particularly, as in my cause I feel no temptation to reject it. Life can present no situation wherein the humble powers of man are so awfully, and so divinely excited, as in defence of a fellow-creature placed in the circumstances of my client: and if any labours can peculiarly attract the gracious and approving eye of heaven, it is when God looks down on a human being assailed by human turpitude, and struggling with practices, against which the deity has placed his special canon when he said—"Thou shalt not bear *false witness* against thy neighbour—thou shalt do no *murder!*"

Gentlemen, let me desire you again and again to consider all the circumstances of this man's case, abstracted from the influence of prejudice and habit; and if aught of passion assume dominion over you, let it be of that honest, generous nature, that good men must feel when they see an innocent man depending on their verdict for his life. To this passion I feel myself insensibly yielding; but unclouded, though not unwarmed, I shall, I trust, proceed in my great duty. Wishing to state my client's case with all possible succinctness the nature of the charge admits, I am glad my learned colleague has acquitted himself on this head already to such an extent, and with such ability, that any thing I can say will chance to be superfluous—in truth, that honesty of heart, and integrity of principle, for which all must give him credit, uniting with a sound judgment, and sympathetic heart, has given to his statement all the advantages it could have derived from these qualities. He has truly said, that "the declaratory act, the twenty-fifth of Edward III. is that on which all charges of high treason are founded," and I trust the observation will be deeply engraven on your hearts. It is an act *made to* save the subject from the vague and wandering uncer-

tainty of the law. It is an act which leaves it no longer doubtful whether a man shall incur conviction by his own conduct, or the sagacity of crown construction: whether he shall sink beneath his own guilt, or the cruel and barbarous refinement of crown prosecution? It has been most aptly called the blessed act; and oh! may the great God of justice and of mercy give repose and eternal blessings to the souls of those honest men by whom it was enacted! By this law no man shall be convicted of high treason but on proveable evidence; the overt acts of treason, as explained in this law, shall be stated clearly and distinctly in the charge; and the proof of these acts shall be equally clear and distinct, in order that no man's life shall depend on partial and wicked allegation.

It does every thing for the prisoner, which he could do himself—it does every thing but uttering the verdict, which alone remains with you, and which, I trust, you will give in the same pure, honest, saving spirit, in which that act was formed.—Gentlemen, I will call it an omnipotent act, if it could possibly appal the informer from our courts of justice: but law cannot do it—religion cannot do it—the feelings of human nature, frozen in the depraved heart of the wretched informer—cannot be thawed!

No law can prevent the envenomed arrow from being pointed at the intended victim; but it has given him a shield in the integrity of a jury. Every thing is so clear in this act, that all must understand: the several acts of treason must be recited, and proveable conviction must follow.—What is proveable conviction? Are you at a loss to know? Do you think if a man comes on the table, and says—"By virtue of my oath, I know of a conspiracy against the state, and such and such persons are engaged in it."—Do you think his mere allegation shall justify you in a verdict of conviction? A wretch coming on this table, of whatsoever description, whether the noble lord who has been examined, or the honourable judges on the bench, or Mr. James O'Brien, who shall declare upon oath that a man bought powder, ball, and arms, intending to kill another—this is not proveable conviction. the unlawful intention shall be attached by cogency of evidence, and the credit of the witness must stand strong and unimpeached.

The law means not, that infamous assertion or dirty ribaldry is

to overthrow the character of a man; even in these imputations flung against the victim, there is, fortunately, something detergent, that cleanses the character it was destined to befoul.

In stating the law, gentlemen, I have told you that the overt acts must be laid and proved by positive testimony of untainted witnesses; and in so saying, I have only spoken the language of the most illustrious writers on the law of England. I would, perhaps, apologize to you for detaining your attention so long on these particular points, but that in the present disturbed state of the public mind, and in the abandonment of principle which it but too frequently produces, I think I cannot too strongly impress you with the purity of legal distinction, so that your souls shall not be harrowed with those torturing regrets which the return of reason would bring along with it, were you, on the present occasion, for a moment to resign it to the subjection of your passions; for these, though sometimes amiable in their impetuosity, can never be dignified and just but under the control of reason. The charge against the prisoner is twofold—compassing and imagining the king's death and adhering to the king's enemies. To be accurate on this head is not less my intention than it is my interest; for if I fall into errors, they will not escape the learned counsel who is to come after me, and whose detections will not fail to be made in the correct spirit of crown prosecution. Gentlemen, there are no fewer than thirteen overt acts, as described, necessary to support the indictment; these, however, it is not necessary to recapitulate. The learned counsel for the crown has been perfectly candid and correct in saying, that if any of them support either species of treason charged in the indictment, it will be sufficient to attach the guilt. I do not complain that on the part of the crown it was not found expedient to point out which act or acts went to support the indictment; neither will I complain, gentlemen, if you fix your attention particularly on the circumstance. Mr. Attorney-general has been pleased to make an observation, which drew a remark from my colleague, with whom I fully agree, that the atrocity of a charge should make no impression on you; it was the judgment of candour and liberality, and should be your's—nor though you should more than answer the high opinion I entertain of you, and though your hearts betray not the consoling confidence which your looks *inspire*, yet do not disdain to increase your stock of candour and

liberality, from whatever source it flows; and though the abundance of my client's innocence may render him independent of its exertions, your country wants it all. You are not to suffer impressions of loyalty, or an enthusiastic love for the sacred person of the king, to give your judgments the smallest bias. You are to decide from the evidence which you have heard, and if the atrocity of the charge were to have any influence with you, it should be that of rendering you more incredulous to the possibility of its truth. I confess, I cannot conceive a greater crime against civilized society, be the form of government what it may, whether monarchical, republican, or, I had almost said, despotic, than an attempt to destroy the life of the person holding the executive authority—the counsel for the crown cannot feel a greater abhorrence against it than I do; and happy am I, at this moment, that I can do justice to my principles, and the feelings of my heart, without endangering the defence of my client; and that defence is, that your hearts would not feel more reluctant to the perpetration of the crimes with which he is charged, than the man who there stands at the bar of his country, waiting until you shall clear him from the foul and unmerited imputation, until your verdict, sounding life and honour to his senses, shall rescue him from the dreadful fascination of the informer's eye.—The overt acts in the charge against the prisoner are many, and all apparently of the same nature, but which, notwithstanding, admit of every material distinction. This want of candour I attribute to the base imposition of the prosecutor on those who brought him forward. You find at the bottom of the charge a foundation-stone attempted to be laid by O'Brien—the deliberations of a society of united Irishmen, and on this are laid all the overt acts. I said the distinction was of moment, because it is endeavoured to be held forth to the public—to all Europe, that, at a time like this of peril and of danger, there are, in one province alone, one hundred and eleven thousand of your countrymen combined for the purpose of destroying the king, and the tranquillity of the country which so much depends on him—an assertion which you should consider of again and again before you give it any other existence than it derives from the attainting breath of the informer, if nothing else should induce that consideration but the name of IRISHMAN, the honours of which you share, so foully, and, as I shall demonstrate, so falsely aspersed.

If you can say that one fact of O'Brien's testimony deserves belief, all that can from thence be inferred is, that a great combination of mind and will exists on some public subject. What says the written evidence on that subject? What are the obligations imposed by the test-oath of the society of united Irishmen? Is it unjust to get rid of religious differences and distinction? Would to God it were possible! Is it an offence against the state, to promote a full, free, and adequate representation of all the people of Ireland in parliament? If it be, the text is full of its own comment, it needs not mine. As to the last cause, obliging to secrecy.—Now, gentlemen of the jury, in the hearing of the court, I submit to the opposite counsel this question, I will make my adversary my arbiter.—Taking the test-oath, as thus written, is there any thing of treason in it? However objectionable it may be, it certainly is not treasonable; I admit there may be a colourable combination of words to conceal a real bad design, but to what evils would it not expose society, if, in this case, to *suppose* were to *decide*. A high legal authority thus speaks on this subject: "strong indeed must the evidence be, which goes to prove that any man can mean by words any thing more, than what is conveyed in their ordinary acceptation." If the test of any particular community were an open one; if, like the London corresponding society, it was to be openly published, then, indeed, there might be a reason for not using words in their common application—but, subject to no public discussion, at least not intended to be so—why should the proceedings of those men, or the obligation by which they are connected, be expressed in the phraseology of studied concealment?

If men meet in secret, to talk over how best the French can invade this country, to what purpose is it that they take an engagement different in meaning? Common sense rejects the idea! Gentlemen, having stated these distinctions, I am led to the remaining divisions of the subject you are to consider. I admit, that, because a man merely takes this obligation of union, it cannot prevent his becoming a traitor if he pleases; but the question for you to decide on would then be, whether every man who takes it must necessarily be a traitor? Independent of that engagement, have any superadded facts been proved against the prisoner? What is the evidence of O'Brien? what has he stated? *Here*, gentlemen, let me claim the benefits of that great privi-

lege, which distinguishes trial by jury in this country from all the world.

Twelve men, not emerging from the must and cobwebs of a study, abstracted from human nature, or only acquainted with its extravagances; but twelve men, conversant with life, and practised in those feelings which mark the common and necessary intercourse between man and man. Such are you, gentlemen; how, then, does Mr. O'Brien's tale hang together? Look to its commencement. He walks along Thomas street, in the open day, (a street not the least populous in the city,) and is accosted by a man, who, without any preface, tells him, he'll be murdered before he goes *half* the street, unless he becomes a united Irishman! Do you think this a probable story? Suppose any of you, gentlemen, be a united Irishman, or a free mason, or a friendly brother, and that you met me walking *innocently* along, just like Mr. O'Brien, and meaning *no harm*, would you say, "Stop, Mr. Curran, don't go further, you'll be murdered before you go half the street, if you do not become an united Irishman, a free mason, or a friendly brother." Did you ever hear so *coaxing* an invitation to *felony* as this? Sweet Mr. James O'Brien! come in and save your precious life; come in and take an oath, or you'll be murdered before you go half the street!—Do, sweetest, dearest Mr. James O'Brien, come in and do not risk your valuable existence." What a loss had he been to his king, whom he loves so marvellously! Well, what does poor Mr. O'Brien do? Poor, dear man, he stands petrified with the magnitude of his danger—all his members refuse their office—he can neither run from the danger, nor call out for assistance; his tongue cleaves to his mouth! and his feet incorporate with the paving stones—it is in vain that his expressive eye silently implores protection of the passenger; he yields at length, as greater men have done, and resignedly submits to his fate: he then enters the house, and being led into a room, a parcel of men *make faces* at him: but mark the metamorphosis—well may it be said that "miracles will never cease,"—he who feared to resist in open air, and in the face of the public, becomes a *bravo*, when pent up in a room, and environed by *sixteen* men; and one is obliged to bar the door, while another swears him; which, after some resistance, is accordingly done, and poor Mr. O'Brien becomes a united Irishman, for no earthly purpose whatever, but

merely to save his sweet life! But this is not all—the pill so bitter to the percipiency of his loyal palate, must be washed down; and lest he should throw it off his stomach, he is filled up to the neck with beef and whiskey.—What further did they do?

Mr. O'Brien, thus persecuted, abused and terrified, would have gone and lodged his sorrows in the sympathetic bosom of the major; but to prevent him even this little solace, they made him drunk.—The next evening they used him in the like barbarous manner, so that he was not only sworn against his will, but, poor man, he was made drunk against his inclination. Thus was he besieged with *united* beef stakes and whiskey, and against such potent assailants not even Mr. O'Brien could prevail.

Whether all this whiskey that he has been *forced* to drink has produced the effect or not, Mr. O'Brien's loyalty is better than his memory. In the spirit of loyalty he becomes prophetic, and told to Lord Portarlington the circumstances relative to the intended attack on the ordnance stores full three weeks before he had obtained the information through moral agency.—Oh! honest James O'Brien!—honest James O'Brien! Let others vainly argue on logical truth and ethical falsehood, but if I can once fasten him to the ring of perjury, I will bait him at it, until his testimony shall fail of producing a verdict, although human nature were as vile and monstrous in you as she is in him! He has made a *mistake!* but surely no man's life is safe if such evidence were admissible; what argument can be founded on his testimony, when he swears he has perjured himself, and that any thing he says must be false; I must not believe him at all, and by a paradoxical conclusion, suppose against "the damnation" of his own testimony, that he is an *honest man!* [Another of the prisoner's counsel having here suggested something to Mr. Curran, he continued.] My learned friend supposed me to be mistaken, and confounding the evidences of O'Brien and Clark; but I am not; I advert to what O'Brien said to lord Portarlington, respecting the attack on the arsenal.

Strongly as I feel my interest keep pace with that of my cli ent, I would not defend him at the expence of truth; I seek not to make him worse than he is; whatever he may be, God Almighty convert his mind! May his reprobation,—but I beg his pardon, let your verdict stamp that currency on his credit; it *will* have more force than any casual remarks of mine. How

this contradiction in Mr. O'Brien's evidence occurred I am at no loss to understand. He started from the beginning with an intention of informing against some person, no matter against whom; and whether he ever saw the prisoner at the time he gave the information to lord Portarlington is a question; but none, that he fabricated the story for the purpose of imposing on the honest zeal of the law officers of the crown.

Having now glanced at a part of this man's evidence, I do not mean to part with him entirely, I shall have occasion to visit him again; but before I do, let me, gentlemen, once more impress upon your minds the observation which my colleague applied to the laws of high treason, that if they are not explained on the statute book, they are explained on the hearts of all honest men; and, as St. Paul says, "though they know not the law, they obey the statutes thereof." The essence of the charge submitted to your consideration tends to the dissolution of the connexion between Ireland and Great Britain.

I own, it is with much warmth and self gratulation, that I feel this calumny answered by the attachment of every good man to the British constitution. I feel, I embrace its principles; and when I look on you, the proudest benefit of that constitution, I am relieved from the fears of advocacy, since I place my client under the influence of its sacred shade. This is not the idle sycophancy of words.—It is not crying "Lord! Lord! but doing the will of my Father who is in heaven." If my client were to be tried by a jury of Ludgate-hill shop-keepers, he would ere now be in his lodging. The law of England would not suffer a man to be cruelly butchered in a court of justice. The law of England recognises the possibility of villains thirsting for the blood of their fellow creatures; and the people of Ireland have no cause to be incredulous of the fact. Thus it is, that in England two witnesses are essential to the proof of high treason; and the poorest wretch that crawls on British ground, has this protection between him and those *vampyres* who crawl out of their graves in search of human blood. If there be but one witness, there is the less possibility of contradicting him—he the less fears any detection of his murderous tale, having only infernal communication between him and the author of all evil; and when on the table, which he makes the altar of his sacrifice, however common men may be affected at sight of the innocent victim, it can-

not be supposed that the prompter of his perjury will instigate him to retribution:—this is the law in England and God forbid that Irishmen should so differ, in the estimation of the law, from Englishmen, that their blood is not equally worth preserving.

I do not, gentlemen, apply any part of this observation to you; you are Irishmen yourselves, and, I know you will act proudly and honestly. Why the law of England renders two witnesses necessary, and one witness insufficient, to take away the life of a man, on a charge of high-treason, is founded on the principles of common sense, and common justice; for unless the subject were guarded by this wise prevention, every wretch who could so pervert the powers of invention, as to trump up a tale of treason and conspiracy, would have it in his power to defraud the crown into the most abominable and afflicting acts of cruelty and oppression.

Gentlemen of the jury, though from the evidence which has been adduced against the prisoner they have lost their value, yet, had they been necessary, I must tell you, that my client came forward under a disadvantage of great magnitude, the absence of two witnesses, very material to his defence.—I am not now at liberty to say what, I am instructed, would have been proved by May, and Mr. Roberts.—Why is not Mr. Roberts here? Recollect the admission of O'Brien, that he threatened to *settle* him, and you will cease to wonder at his absence, when, if he came, the dagger was in preparation to be plunged into his heart.—I said Mr. Roberts was absent: I correct myself—No! in effect he is here. I appeal to the heart of that obdurate man, what would have been his testimony if he had dared to venture a personal evidence on this trial?—Gracious God! Is a tyranny of this kind tc be borne with, where law is said to exist! Shall the horrors wnich surround the informer, the ferocity of his countenance, and the terrors of his voice, cast such a wide and appalling influence, that none dare approach and save the victim which he marks for ignominy and death!

Now, gentlemen, be pleased to look to the rest of O'Brien's testimony: he tells you there are one hundred and eleven thousand men in one province, added to ten thousand of the inhabitants of the metropolis, ready to assist the object of an invasion. What! gentlemen, do you think there are so many in one province—so many in your city, combined against their country?

At such a time as this, do you think it a wise thing to say, on the evidence of the abominable O'Brien, that if the enemy was to invade this country, there are one hundred and eleven thousand men ready to run to his standard? But this is not the most appalling view of this question.—For its importance, and its novelty, this is the most unprecedented trial in the annals of this country. I recollect none bearing any affinity to it, save that of the unhappy wanderer, Jackson: and promising that I mean not the smallest allusion to the conduct of public measures in this country, are you prepared, I ask you seriously, are you prepared to embark your respectable characters in the same bottom with this *detestable* INFORMER?—Are you ready on such evidence to take away, one by one, the lives of a hundred thousand men, by prosecutions in a court of justice? Are you prepared, when O'Brien shall come forward against ten thousand of your fellow-citizens, to assist him in digging the graves, which he has destined to receive them one by one? No! could your hearts yield for a moment to the suggestion, your own reflections would vindicate the justice of God, and the insulted character of man; you would fly from the secrets of your chamber, and take refuge in the multitude, from those "compunctious visitings," which meaner men could not look on without horror. Do not think I am speaking disrespectfully of you when I say that while an O'Brien may be found, it may be the lot of the proudest among you to be in the dock instead of the jury box; how then on such an occasion would any of you feel, if such evidence as has been heard this day were adduced against you?

The application affects you—you shrink from the imaginary situation—remember then the great mandate of your religion, and "do unto all men as you would they should do unto you." Why do you condescend to listen to me with such attention? why so anxious, if even from me any thing should fall tending to enlighten you on the present awful occasion? it is, because, bound by the sacred obligations of an oath, your heart will not allow you to forfeit it. Have you any doubt that it is the object of O'Brien to take down the prisoner for the reward that follows? Have you not seen with what more than instinctive keenness this blood-hound has pursued his victim? how he has kept him in view from place to place until he hunts him through the avenues of the court, to where the unhappy man stands now,

hopeless of all succour but that which your verdict shall afford. I have heard of assassination by sword, by pistol, and by dagger, but here is a wretch who would dip the evangelists in blood—if he thinks he has not sworn his victim to death, he is ready to swear, without mercy and without end; but oh! do not, I conjure you, suffer him to take an oath; the arm of the murderer should not pollute the purity of the gospel; if he will swear, let it be on the knife, the proper symbol of his profession!—Gentlemen, I am reminded of the tissue of abomination, with which this deadly calumniator, this O'Brien, has endeavoured to load so large a portion of your adult countrymen. He charges one hundred thousand Irishmen with the deliberate cruelty of depriving their fellow-creatures of their eyes, tongues, and hands! Do not believe the infamous slander! If I were told that there was in Ireland one man who could so debase human nature, I should hesitate to believe that even O'Brien were he. I have heard the argument made use of, that, in cases of a very foul nature, witnesses cannot be found free from imputation; this admitted in its fullest extent, it does not follow, that such evidence is to be accredited without other support. In such cases strong corroboration is necessary, and you would be the most helpless and unfortunate men in the world, if you were under the necessity of attending to the solitary testimony of such witnesses. In the present prosecution two witnesses have been examined, for the respectable character of lord Portarlington must not be polluted by a combination with O'Brien: if his lordship had told exactly the same story with O'Brien, it could not, however, be considered as corroborating O'Brien, who might as easily have uttered a falsehood to lord Portarlington as he did here; but how much more strongly must you feel yourselves bound to reject his evidence, when appealing to his lordship, he is materially contradicted, and his perjury established. With respect to Clark, he fixes no corroborative evidence whatever to the overt acts laid in the indictment. In endeavouring to slide in evidence of a conspiracy to murder Thompson, what might be the consequence, if such a vile insinuation took possession of your minds?—I am not blinking the question, I come boldly up to it—there is not the most remote evidence to connect the fate of Thompson with the present case, and nothing could show the miserable *paucity* of his evidence more, than seeking to support it on what

did not at all relate to the charge. Five witnesses, as if by the interference of providence, have discredited O'Brien to as many facts.

What did the simple and honest evidence of John Clarke of Blue-bell amount to against O'Brien? it attached the double crime of artifice and perjury, and added robbery to the personification. See now in Dublin there are at this moment thousands and ten thousands of your fellow citizens, anxiously by, waiting to know if you will convict the prisoner on the evidence of a wilful and corrupt perjurer; whether they are, each in his turn, to feel the fatal effects of his condemnation, or whether they are to find protection in the laws from the machinations of the *informer*. [Mr. Curran having been reminded to observe on the *recipe* for coining.] No! continued he, let him keep his *coining* for himself; it suits him well, and is the proper emblem of his conscience, *copper washed*. Would you let such a fellow as this into your house as a servant under the impressions which his evidence must make on your minds?

If you would not take his services in exchange for wages, will you take his perjury in exchange for the life of a fellow creature? How will you feel, if the *assignats* of such evidence pass current for human blood! How will you bear the serrated and iron fangs of remorse, gnawing at your hearts, if in the moment of abandonment, you suffer the victim to be massacred even in our arms? But has his perjury stopped here? What said the innocent countryman, Patrick Cavanagh?—Pursuing the even tenor of his way, in the paths of honest industry, he is in the act of fulfilling the decree of his Maker; he is earning his bread by the sweat of his brow, when this villain, less pure than the arch-fiend who brought this sentence of laborious action on mankind, enters the habitation of peace and humble industry, and, not content with dipping his tongue in perjury and blood, robs the poor man of two guineas! Can you wonder that he crept into the hole of the multitude when the witness would have developed him? do you wonder that he endeavoured to shun your eyes?

At this moment even the bold and daring villany of O'Brien stood abashed; he saw the eye of heaven in that of an innocent and injured man; perhaps the feeling was consummated by a glance from the dock—his heart bore testimony to his guilt, and he fled for the same! Gracious God! have you been so soiled in

the vile intercourse, that you will give him a degree of credit, which you will deny to the candid and untainted evidence of so many honest men? But I have not done with him yet—while an atom of his vileness hangs together, I will separate it, lest you should chance to be taken by it. Was there a human creature brought forward to say he is any other than a villain? did his counsel venture to ask our witnesses, why they discredited him? did he dare to ask on what they established their assertions? no! by this time it is probable Mr. O'Brien is sick of investigation. You find him coiling himself in the scaly circles of his cautious perjury, making anticipated battle against any one who should appear against him; but you see him sink before the proof.

Do you feel, gentlemen, that I have been wantonly aspersing this man's character? Is he not a perjurer, a swindler? and that he is not a murderer, will depend on you. He assumes the character of a king's officer, to rob the king's people of their money; and afterwards, when their property fails him, he seeks to rob them of their lives! What say you to his habitual fellowship with baseness and fraud? He gives a recipe instructing to felony, and counterfeiting the king's coin; and when questioned about it, what is his answer?—why truly, that it was "only a *light, easy* way of getting money—only a *little bit* of a *humbug*." Good God! I ask you, has it ever came across you, to meet with such a constellation of infamy!

Beside the perjury, Clark had nothing to say, scarcely ground to turn on. He swears he was not in the court yesterday—what then? why, he has only perjured himself!—well, call *little skirmish* up again?—why, it was but a *mistake!* a little puzzled or so, and not being a *lawyer*, he could not tell whether he was in court or not! Mr. Clark is a much better evidence than my lord Portarlington—his lordship, in the improvidence of truth, bore a single testimony; while Clark, wisely providing against contingences, swore at both sides of the gutter; but the lesser perjurer is almost forgotten in the greater. No fewer than FIVE perjuries are established against the *loyal* Mr. O'Brien, who has been "*united* to every *honest man*"—if indicted on any one of these, I must tell you, gentlemen, that he could not be sworn in a court of justice; on the testimony of five witnesses, on his own testimony, he stands indicted before you; and, gentlemen, you *must* refuse him that credit, not to be squandered on such base-

ness and profligacy. The present cause takes in the entire character of your country, which may suffer in the eyes of all Europe by your verdict. This is the first prosecution of the kind brought forward to view.—It is the great experiment of the informers of Ireland, to ascertain how far they can carry on a traffic in human blood! This cannibal informer, this demon, O'Brien, greedy after human gore, has fifteen other victims in reserve, if, from your verdict, he receives the unhappy man at the bar! Fifteen more of your fellow citizens are to be tried on his evidence! Be you then their saviours; let your verdict snatch them from his ravening maw, and interpose between yourselves and endless remorse!

I know, gentleman, I would but insult you, if I were to apologise for detaining you thus long: if I have apology to make to any person, it is to my client, for thus delaying his acquittal. Sweet is the recollection of having done justice, in that hour when the hand of death presses on the human heart! Sweet is the hope which it gives birth to! From you I demand that justice for my client, your innocent and unfortunate fellow subject at the bar; and may you have for it a more lasting reward than the perishable crown we read of, which the ancients placed on the brow of him who saved in battle the life of a fellow citizen.

If you should ever be assailed by the hand of the *informer*, may you find an all-powerful refuge in the example which you shall set this day; earnestly do I pray that you may never experience what it is to count the tedious hours in captivity, pining in the damps and gloom of the dungeon, while the wicked one is going about at large, seeking whom he may devour. There is another than a human tribunal, where the best of us will have occasion to look back on the little good we have done. In that awful trial, oh! may your verdict this day assure your hopes, and give you strength and consolation in the presence of an ADJUDGING GOD.

[*Here ended Mr. Curran's address: and to say that the reporter has done it justice, is a presumption which he disclaims. To keep pace with the rapid flow of his eloquence, is impossible; the hearer stands in astonishment and rapture, viewing the majesty of its course; and he who most admires it, is least able to record it.*]

MR. FINNEY WAS ACQUITTED.

SPEECH OF MR. CURRAN,

IN DEFENCE OF MR. PETER FINNERTY,

On Friday, December 22d, 1797.

ABSTRACT OF THE INDICTMENT.

Mr. Peter Finnerty being put to the bar, the pannel of the petty jurors was called; there appeared above one hundred and forty names on it.

The clerk of the crown then gave Mr. Finnerty in charge of the jury, upon an indictment, stating, "That at the general assizes, and general gaol delivery, holden at Carrickfergus, in and for the county of Antrim, on the seventeenth day of April, in the thirty-seventh year of the king, before the honourable Matthias Finucane, one of the judges of his majesty's court of common pleas in Ireland, and the honourable Denis George, one of the barons of his majesty's court of exchequer in Ireland, justices and commissioners assigned to deliver the gaol of our said lord, the king, in and for the county of Antrim, of the several prisoners and malefactors therein, one William Orr, late of Farranshane, in said county Antrim, yeoman, was in lawful manner indicted for feloniously administering a certain oath and engagement, upon a book, to one Hugh Wheatly; which oath and engagement imported to bind the said Hugh Wheatly, who then and there took the same, to be of an association, brotherhood, and society, formed for seditious purposes; and also, for feloniously causing, procuring, and inducing said Hugh Wheatly to take an oath of said import last mentioned, and also for feloniously administering to said Hugh Wheatly another oath, importing to bind said Hugh Wheatly not to inform or give evidence against any brother, associate, or confederate of a certain society then and there formed; and also, for feloniously causing, procuring, and seducing said Hugh Wheatly to take an oath of said

import last mentioned. And afterwards at Carrickfergus aforesaid, before the right honourable Barry lord Yelverton, lord chief baron of his majesty's court of exchequer, in Ireland, and the honourable Tankerville Chamberlaine, one of his majesty's justices of his court of chief place in Ireland, at a general assizes, &c., on the sixteenth day of September, in the thirty-seventh year of the king, said William Orr, by the verdict of a certain jury of said county of Antrim, between our said lord, the king, and said William Orr, taken of and for the felony aforesaid, in due manner, was tried, convicted, and attainted, and for the same was duly executed; and that he, well knowing the premises, but being a wicked and ill disposed person, and of unquiet conversation and disposition, and devising and intending to molest and disturb the peace and public tranquillity of this kingdom of Ireland; and to bring and draw the trial aforesaid, and the verdict thereon, for our said lord, the king, against this William Orr given, and the due course of law in that behalf had, as aforesaid, into hatred, contempt, and scandal, with all the liege subjects of our said lord, the king; and to persuade, and cause the subjects of our said lord, the king, to believe, that the trial aforesaid was unduly had, and that the said William Orr, did undeservedly die in manner aforesaid; and that his excellency, John Jeffreys, earl Camden, the lord lieutenant of this kingdom, after the conviction aforesaid, ought to have extended to the said William Orr, his majesty's gracious pardon of the felonies aforesaid; and that in not so extending such pardon, he, the said lord lieutenant, had acted inhumanly, wickedly, and unjustly, and in a manner unworthy of the trust which had been committed to him by our said lord, the king, in that behalf; and that the said lord lieutenant, in his government of this kingdom, had acted unjustly, cruelly, and oppressively, to his majesty's subjects therein. And to fulfil and bring to effect his most wicked and detestable vices and intentions aforesaid, on the twenty-sixth of October, in the thirty-seventh year of the king, at Mountrath street aforesaid, city of Dublin aforesaid, falsely, wickedly, maliciously, and seditiously, did print and publish, and cause and procure to be printed and published, in a certain newspaper entitled 'the press,' a certain false, wicked, malicious, and seditious libel, of and concerning the said trial, conviction, attainder, and execution of the said William Orr, as aforesaid, and of and concerning the said

lord lieutenant and his government of this kingdom, and his majesty's ministers employed by him in his government of this kingdom, according to the tenor and effect following, to wit, 'The death of Mr. Orr, [meaning the said execution of the said William Orr,] the nation has pronounced one of the most sanguinary and savage acts that has disgraced the laws. In perjury, did you not hear, my lord, [meaning the said lord lieutenant,] the verdict [meaning the verdict aforesaid] was given? Perjury accompanied with terror, as terror has marked every step of your government. [Meaning the government of this kingdom aforesaid, by the said lord lieutenant.] Vengeance and desolation were to fall on those who would not plunge themselves in blood. These were not strong enough: Against the express law of the land, not only was drink introduced to the jury, [meaning the jury aforesaid,] but drunkenness itself, beastly and criminal drunkenness, was employed to procure the murder of a better man [meaning the said execution of the said William Orr] than any that now surrounds you, [meaning the said lord lieutenant.]' And in another part thereof, according to tenor and effect following, to wit: 'Repentance, which is a slow virtue, hastened, however, to declare the innocence of the victim, [meaning the said William Orr,] the mischief [meaning the said conviction of the said William Orr] which perjury had done, truth now stept forward to repair. Neither was she too late, had humanity formed any part of your counsels, [meaning the counsels of the said lieutenant.] Stung with remorse, on the return of reason, part of his jury, [meaning the jury aforesaid,] solemnly and soberly made oath, that their verdict [meaning the verdict aforesaid] had been given under the unhappy influence of intimidation and drink; and in the most serious affidavit that ever was made, by acknowledging their crime, endeavoured to atone to God and to their country, for the sin into which they had been seduced.' And in another part thereof, according to the tenor and effect following, to wit: 'And though the innocence of the accused, [meaning the said William Orr,] had even remained doubtful, it was your duty, [meaning the duty of the said lord lieutenant,] my lord, and you [meaning the said lord lieutenant] had no exemption from that duty, to have interposed your arm, and saved him [meaning the said William Orr] from the death [meaning the execution aforesaid] *that perjury*, drunkenness, and reward had prepared for him.

[meaning the said William Orr.] Let not the nation be told that you [meaning the said lord lieutenant] are a passive instrument in the hands of others; if passive you be, then is your office a shadow indeed. If an active instrument, as you ought to be, you [meaning the said lord lieutenant] did not perform the duty which the laws required of you; you, [meaning the said lord lieutenant] did not exercise the prerogative of mercy; that mercy which the constitution had entrusted to you [meaning the said lord lieutenant] for the safety of the subject, by guarding him from the oppression of wicked men. Innocent it appears he [meaning the said William Orr] was, his blood [meaning the blood of the said William Orr] has been shed, and the precedent indeed is awful.' And in another part thereof, according to the tenor and effect following, to wit. 'But suppose the evidence of Wheatly had been true, what was the offence of Mr. Orr [meaning the said William Orr]? Not that he had taken an oath of blood and extermination—for then he had not suffered? but that he [meaning the said William Orr] had taken an oath of charity and of union, of humanity and peace, he [meaning the said William Orr] has suffered. Shall we then be told that your government [meaning the government of this kingdom aforesaid, by the said lord lieutenant] will conciliate public opinion, or that the people will not continue to look for a better?' And in another part thereof, according to the tenor and effect following, that is to say: 'Is it to be wondered, that a successor of Lord Fitzwilliam should sign the death-warrant of Mr. Orr [meaning the said William Orr]. Mr. Pitt had learned that a merciful lord lieutenant was unsuited to a government of violence. It was no compliment to the native clemency of a Camden, that he sent you [meaning the said lord lieutenant] into Ireland—and what has been our portion under the change, but massacre and rape, military murders, desolation and terror.' And in another part thereof, according to the tenor and effect here following, that is to say: "Feasting in your castle in the midst of your myrmidons and bishops, you [meaning the said lord lieutenant] have little concerned yourself about the expelled and miserable cottager, whose dwelling, at the moment of your mirth, was in flames, his wife and his daughter then under the violation of some commissioned ravager, his son agonizing on the bayonet, and his helpless infants crying in vain for mercy. These are lamentations that stain not the house of carousal. Un-

der intoxicating counsels [meaning the counsels of the said lord lieutenant] the constitution has reeled to its centre, justice is not only blind drunk, but deaf, like Festus, to the words of soberness and truth.' And in another part thereof according to the tenor and effect here following, to wit: 'Let however the awful execution of Mr. Orr [meaning the execution aforesaid of the said William Orr,] be a lesson to all unthinking juries, and let them cease to flatter themselves that the soberest recommendation of theirs, and of the presiding judge, can stop the course of carnage, which sanguinary, and, I do not fear to say, unconstitutional laws have ordered to be loosed. Let them remember that, like Macbeth, the servants of the crown have waded so far in blood that they find it easier to go on than to go back:' in contempt, &c. and against the peace."

There were other counts charging the publication in different ways.

The evidence for the prosecution being gone through, and some witnesses having been produced on the part of the traverser, the examination of whom was successively stopt by the court, it appearing that they were examined to prove the truth of the facts stated in the publication.

Mr. CURRAN.—Never did I feel myself so sunk under the importance of any cause: to speak to a question of this kind at any time would require the greatest talent and the most matured deliberation; but to be obliged without either of those advantages, to speak to a subject that hath so deeply shaken the feelings of this already irritated and agitated nation, is a task that fills me with embarrassment and dismay.

Neither my learned colleague or myself received any instruction or license until after the jury were actually sworn; and we both of us came here under an idea that we should not take any part in the trial. This circumstance I mention, not as an idle apology for an effort that cannot be the subject of either praise or censure, but as a call upon you, gentlemen of the jury, to supply the defects of my efforts, by a double exertion of your attention.

Perhaps I ought to regret that I cannot begin with any compliment, that may recommend me or my client personally to your favour. A more artful advocate would probably begin his address to you by compliments on your patriotism, and by felicitating his client upon the happy selection of his jury, and upon

that unsuspected impartiality in which, if he was innocent, he must be safe. You must be conscious gentlemen, that such idle verbiage as that could not convey either my sentiments or my client's upon that subject. You know and we know upon what occasion you are come, and by whom you have been chosen; you are come to try an accusation professedly brought forward by the state, chosen by a sheriff who is appointed by our accuser.

[*Here Mr. Attorney-general said, the sheriff was elected by the city, and that that observation was therefore unfounded.*]

Be it so: I will not now stop to inquire whose property the city may be considered to be; but the learned gentleman seems to forget, that the election by that city, to whomsoever it may belong, is absolutely void, without the approbation of that very lord lieutenant, who is the prosecutor in this case. I do therefore repeat, gentlemen, that not a man of you has been called to that box by the voice of my client; that he has had no power to object to a single man among you, though the crown has: and that you yourselves must feel under what influence you are chosen, or for what qualifications you are particularly selected. At a moment when this wretched land is shaken to its centre by the dreadful conflicts of the different branches of the community; between those who call themselves the partizans of liberty, and those that call themselves the partizans of power: between the advocates of infliction, and the advocates of suffering; upon such a question as the present, and at such a season, can any man be at a loss to guess from what class of character and opinion a friend to either party would resort for that jury, which was to decide between both? I trust, gentlemen, you know me too well to suppose that I could be capable of treating you with any personal disrespect; I am speaking to you in the honest confidence of your fellow citizen. When I allude to those unworthy imputations of supposed bias, or passion, or partiality, that may have marked you out for your present situation, I do so in order to warn you of the ground on which you stand, of the point of awful responsibility in which you are placed, to your conscience, and to your country; and to remind you, that if you have been put into that box from any unworthy reliance on your complaisance or your servility, you have it in your power before you leave it, to refute and to punish so vile an expectation by the integrity of your verdict; to remind you that you have it in your power

to show to as many Irishmen as yet linger in this country, that all law and justice have not taken their flight with our prosperity and peace; that the sanctity of an oath, and the honesty of a juror are not dead amongst us; and that if our courts of justice are superseded by so many strange and terrible tribunals, it is not because they are deficient either in wisdom or virtue.

Gentlemen, it is necessary that you should have a clear idea, first of the law, by which this question is to be decided: secondly, of the nature and object of the prosecution. As to the first, it is my duty to inform you that the law respecting libels has been much changed of late.—Heretofore, in conseqence of some decisions of the judges in Westminster hall, the jury was conceived to have no province but that of finding the truth of the innuendos and the fact of publication; but the libellous nature of that publication, as well as the guilt or innocence of the publication, were considered as exclusively belonging to the court. In a system like that of law, which reasons logically, no one erroneous principle can be introduced, without producing every other that can be deducible from it. If in the premises of any argument you admit one erroneous proposition, nothing but bad reasoning can save the conclusion from falsehood. So it has been with this encroachment of the court upon the province of the jury with respect to libels. The moment the court assumed as a principle that they, the court, were to decide upon every thing but the publication; that is, that they were to decide upon the question of libel or no libel, and upon the guilt or innocence of the intention, which must form the essence of every crime; the guilt or innocence must of necessity have ceased to be material. You see, gentlemen, clearly, that the question of intention is a mere question of fact. Now the moment the court determined that the jury was not to try that question, it followed of necessity that it was not to be tried at all; for the court cannot try a question of fact. When the court said that it was not triable, there was no way of fortifying that extraordinary proposition, except by asserting that it was not material. The same erroneous reasoning carried them another step, still more mischievous and unjust: if the intention had been material, it must have been decided upon as a mere fact under all its circumstances. Of these circumstances the meanest understanding can see that the leading one *must be* the truth or the falsehood of the publication; but hav-

ing decided the intention to be immaterial, it followed that the truth must be equally immaterial—and under the law so distorted, any man in England who published the most undeniable truth, and with the purest intention, might be punished for a crime in the most ignominious manner, without imposing on the prosecutor the necessity of proving his guilt, or getting any opportunity of showing his innocence. I am not in the habit of speaking of legal institutions with disrespect; but I am warranted in condemning that usurpation upon the right of juries, by the authority of that statute, by which your jurisdiction is restored. For that restitution of justice the British subject is indebted to the splendid exertions of Mr. Fox and Mr. Erskine,—those distinguished supporters of the constitution and of the law; and I am happy to say to you, that though we can claim no share in the glory they have so justly acquired, we have the full benefit of their success; for you are now sitting under a similar act passed in this country, which makes it your duty and your right to decide upon the entire question upon its broadest grounds, and under all its circumstances, and of course to determine, by your verdict, whether this publication be a false and scandalous libel: false in fact, and published with the seditious purpose alleged of bringing the government into scandal, and instigating the people to insurrection.

Having stated to you, gentlemen, the great and exclusive extent of your jurisdiction, I shall beg leave to suggest to you a distinction that will strike you at first sight; and that is, the distinction between public animadversions upon the character of private individuals, and those which are written upon measures of government, and the persons who conduct them. The former may be called personal, and the latter political publications. No two things can be more different in their nature, nor in the point of view in which they are to be looked on by a jury. The criminality of a mere personal libel consists in this, that it tends to a breach of the peace; it tends to all the vindictive paroxysms of exasperated vanity, or to the deeper and more deadly vengeance of irritated pride. The truth is, few men see at once that they cannot be hurt so much as they think by the mere battery of a newspaper. They do not reflect that every character has a natural station, from which it cannot be effectually degraded, and beyond which it cannot be raised by the bawling of a newshawker.

If it is wantonly aspersed, it is but for a season, and that for a short one, when it emerges like the moon from a passing cloud to its original brightness. It is right, however, that the law and that you should hold the strictest hand over this kind of public animadversion, that forces humility and innocence from their retreat into the glare of public view; that wounds and terrifies; that destroys the cordiality and the peace of domestic life; and that without eradicating a single vice, or a single folly, plants a thousand thorns in the human heart.

In cases of that kind I perfectly agree with the law, as stated from the bench; in such cases, I hesitate not to think, that the truth of a charge ought not to justify its publication. If a private man is charged with a crime, he ought to be prosecuted in a court of justice, where he may be punished if it is true, and the accuser if it is false; but far differently do I deem of the freedom of political publication. The salutary restraint of the former species, which I talked of, is found in the general law of all societies whatever; but the more enlarged freedom of the press, for which I contend in political publication, I conceive to be founded in the peculiar nature of the British constitution, and to follow directly from the contract on which the British government hath been placed by the revolution. By the British constitution, the power of the state is a trust, committed by the people, upon certain conditions: by the violation of which, it may be abdicated by those who hold, and resumed by those who conferred it. The real security therefore of the British sceptre is the sentiment and opinion of the people, and it is consequently their duty to observe the conduct of the government; and it is the privilege of every man to give them full and just information upon that important subject. Hence the liberty of the press is inseparably twined with the liberty of the people. The press is the great public monitor; its duty is that of the historian and the witness, that "*nil falsi audeat, nil veri non audeat discere;*" that its horizon shall extend to the farthest verge and limit of truth; that it shall speak truth to the king in the hearing of the people, and to the people in the hearing of the king; that it shall not perplex either the one or the other with false alarm, lest it lose its character for veracity, and become an unheeded warner of real danger; lest it should vainly warn them of that sin, of which the inevitable consequence is death. This, gentlemen, is the great privilege

upon which you are to decide: and I have detained you the longer, because of the late change of the law, and because of some observations that have been made, which I shall find it necessary to compare with the principles I have now laid down.

And now, gentlemen, let us come to the immediate subject of the trial, as it is brought before you, by the charge in the indictment, to which it ought to have been confined; and also, as it is presented to you by the statement of the learned counsel, who has taken a much wider range than the mere limits of the accusation, and has endeavoured to force upon your consideration extraneous and irrelevant facts, for reasons which it is not my duty to explain. The indictment states simply, that Mr. Finnerty has published a false and scandalous libel upon the lord lieutenant of Ireland, tending to bring his government into disrepute, and to alienate the affections of the people; and one would have expected, that, without stating any other matter, the counsel for the crown would have gone directly to the proof of this allegation; but he has not done so; he has gone to a most extraordinary length indeed of preliminary observation, and an allusion to facts, and sometimes an assertion of facts, at which I own I was astonished, until I saw the drift of these allusions and assertions. Whether you have been fairly dealt with by him, or are now honestly dealt with by me, you must be judges. He has been pleased to say, that this prosecution is brought against this letter signed Marcus, merely as a part of what he calls a system of attack upon government by the paper called the PRESS. As to this I will only ask you whether you are fairly dealt with? Whether it is fair treatment to men upon their oaths, to insinuate to them, that the general character of a newspaper (and that general character founded merely upon the assertion of the prosecutor,) is to have any influence upon their minds, when they are to judge of a particular publication? I will only ask you, what men you must be supposed to be, when it is thought that even in a court of justice, and with the eyes of the nation upon you, you can be the dupes of that trite and exploded expedient, so scandalous of late in this country, of raising a vulgar and mercenary cry against whatever man, or whatever principle, it is thought necessary to put down; and I shall therefore merely leave it to your own pride to suggest, upon what foundation it could be hoped, that a senseless clamour of that kind could be

echoed back by the yell of a jury upon their oaths. I trust, you see that this has nothing to do with the question.

Gentlemen of the jury, other matters have been mentioned, which I must repeat for the same purpose; that of showing you that they have nothing to do with the question. The learned counsel has been pleased to say, that he comes forward in this prosecution as the real advocate for the liberty of the press, and to protect a mild and a merciful government from its licentiousness; and he has been pleased to add, that the constitution can never be lost while its freedom remains, and that its licentiousness alone can destroy that freedom. As to that, gentlemen, he might as well have said, that there is only one mortal disease of which a man can die; I can die the death inflicted by tyranny; and when he comes forward to extinguish this paper in the ruin of the printer by a state prosecution, in order to prevent its dying of licentiousness, you must judge how candidly he is treating you, both in the fact and in the reasoning. Is it in Ireland, gentlemen, that we are told licentiousness is the only disease that can be mortal to the press? Has he heard of nothing else that has been fatal to the freedom of publication? I know not whether the printer of the Northern Star may have heard of such things in his captivity, but I know that his wife and his children are well apprized that a press may be destroyed in the open day, not by its own licentiousness, but by the licentiousness of a military force. As to the sincerity of the declaration that the state has prosecuted in order to assert the freedom of the press, it starts a train of thought, of melancholy retrospect and direful prospect, to which I did not think the learned counsel would have wished to commit your minds. It leads you naturally to reflect at what times, from what motives, and with what consequences the government has displayed its patriotism, by these sorts of prosecutions. As to the motives; does history give you a single instance in which the state has been provoked to these conflicts, except by the fear of truth, and by the love of vengeance? Have you ever seen the rulers of any country bring forward a prosecution from motives of filial piety, for libels upon their departed ancestors? Do you read that Elizabeth directed any of those state prosecutions against the libels which the divines of her times had written against her catholic sister, or against the other libels which the same gentlemen had written against her protestant

father? No, gentlemen, we read of no such thing; but we know she did bring forward a prosecution from motives of personal resentment; and we know that a jury was found time-serving and mean enough to give a verdict, which she was ashamed to carry into effect. I said, the learned counsel drew you back to the times that have been marked by these miserable conflicts. I see you turn your thoughts to the reign of the second James. I see you turn your eyes to those pages of governmental abandonment, of popular degradation, of expiring liberty, of merciless and sanguinary persecution; to that miserable period, in which the fallen and abject state of man might have been almost an argument in the mouth of the atheist and the blasphemer against the existence of an all just and an all wise first cause, if the glorious æra of the revolution that followed it had not refuted the impious inference, by showing that if man descends, it is not in his own proper motion; that it is with labour and with pain, and that he can continue to sink only until, by the force and pressure of the descent, the spring of his immortal faculties acquires that recuperative energy and effort that hurries him as many miles aloft—he sinks but to rise again. It is at that period that the state seeks for shelter in the destruction of the press; it is in a period like that, that the tyrant prepares for an attack upon the people, by destroying the liberty of the press; by taking away that shield of wisdom and of virtue, behind which the people are invulnerable; in whose pure and polished convex, ere the lifted blow has fallen, he beholds his own image, and is turned into stone. It is at those periods that the honest man dares not speak, because truth is too dreadful to be told; it is then humanity has no ears, because humanity has no tongue. It is then the proud man scorns to speak, but like a physician baffled by the wayward excesses of a dying patient, retires indignantly from the bed of an unhappy wretch, whose ear is too fastidious to bear the sound of wholesome advice, whose palate is too debauched to bear the salutary bitter of the medicine that might redeem him; and therefore leaves him to the felonious piety of the slaves that talk to him of life, and strip him before he is cold.

I do not care, gentlemen, to exhaust too much of your attention, by following this subject through the last century with much minuteness; but the facts are too recent in your mind not to show you, that the liberty of the press and the liberty of the

people sink and rise together; that the liberty of speaking and the liberty of acting have shared exactly the same fate. You must have observed in England, that their fate has been the same in the successive vicissitudes of their late depression; and sorry I am to add, that this country has exhibited a melancholy proof of their inseparable destiny, through the various and further stages of deterioration down to the period of their final extinction; when the constitution has given place to the sword, and the only printer in Ireland, who dares to speak for the people, is now in the dock.

Gentlemen, the learned counsel has made the real subject of this prosecution so small a part of his statement, and has led you into so wide a range, certainly as necessary to the object, as inapplicable to the subject of this prosecution, that I trust you will think me excusable in somewhat following his example. Glad am I to find that I have the authority of the same example for coming at last to the subject of this trial. I agree with the learned counsel, that the charge made against the lord lieutenant of Ireland is that of having grossly and inhumanly abused the royal prerogative of mercy, of which the king is only the trustee for the benefit of the people. The facts are not controverted. It has been asserted that their truth or falsehood is indifferent, and they are shortly these, as they appear in this publication.

Willaim Orr was indicted for having administered the oath of an united Irishman. Every man now knows what that oath is: that it is simply an engagement, first, to promote a brotherhood of affection among men of all religious distinctions; secondly, to labour for the attainment of a parliamentary reform; and thirdly, an obligation of secrecy, which was added to it when the convention law made it criminal and punishable to meet by any public delegation for that purpose. After remaining upwards of a year in gaol, Mr. Orr was brought to his trial; was prosecuted by the state; was sworn against by a common informer of the name of Wheatly, who himself had taken the obligation, and was convicted under the insurrection act, which makes the administering such an obligation felony of death—the jury recommended Mr. Orr to mercy; the judge, with a humanity becoming his character, transmitted the recommendation to the noble prosecutor in this case. Three of the jurors made *solemn* affidavit in court, that liquor had been conveyed into their

box; that they were brutally threatened by some of their fellow-jurors with capital prosecution if they did not find the prisoner guilty; and that under the impression of those threats, and worn down by watching and intoxication, they had given a verdict of guilty against him, though they believed him in their conscience to be innocent. That further inquiries were made, which ended in a discovery of the infamous life and character of the informer; that a respite was therefore sent once, and twice, and thrice, to give time, as Mr. Attorney-general has stated, for his excellency to consider whether mercy *could* be extended to him or not; and that, with a knowledge of all these circumstances, his excellency did finally determine that mercy should not be extended to him, and that he was accordingly executed upon that verdict. Of this publication, which the indictment charges to be false and seditious, Mr. Attorney-general is pleased to say, that the design of it is to bring the courts of justice into contempt. As to this point of fact, gentlemen, I beg to set you right.

To the administration of justice, so far as it relates to the judges, this publication has not even an allusion in any part mentioned in this indictment; it relates to a department of justice, that cannot begin until the duty of the judge closes. Sorry should I be, that, with respect to this unfortunate man, any censure should be flung on those judges who presided at this trial, with the mildness and temper that became them, upon so awful an occasion as the trial of life and death. Sure am I, that if they had been charged with inhumanity or injustice, and if they had condescended at all to prosecute the reviler, they would not have come forward in the face of the public to say, as has been said this day, that it was immaterial whether the charge was true or not. Sure I am, their first object would have been to show that it was false, and readily should I have been an eye witness of the fact, to have discharged the debt of ancient friendship, of private respect, and of public duty, and upon my oath to have repelled the falsehood of such an imputation. Upon this subject, gentlemen, the presence of those venerable judges restrains what I might otherwise have said, nor should I have named them at all, if I had not been forced to do so; and merely to undeceive you, if you have been made to believe their characters to have any community of cause whatever, with the lord lieutenant of Ireland. To him alone it is confined, against him the charge is

made, as strongly, I suppose, as the writer could find words to express it, that the viceroy of Ireland has cruelly abused the prerogative of royal mercy, in suffering a man under such circumstances to perish like a common malefactor. For this Mr. Attorney-general calls for your conviction as a false and scandalous libel; and after stating himself every fact that I have repeated to you, either from his statement, or from the evidence, he tells you that you ought to find it false and scandalous, though he al most in words admits that it is not false, and has resisted the admission of the evidence by which we offered to prove every word of it to be true.

And here, gentlemen, give me leave to remind you of the parties before you. The traverser is a printer, who follows that profession for bread, and who, at a time of great public misery and terror, when the people are restrained by law from debating under any delegated form; when the few constituents that we have are prevented by force from meeting in their own persons, to deliberate or to petition; when every other newspaper in Ireland is put down by force, or purchased by the administration; (though here, gentlemen, perhaps I ought to beg your pardon for stating without authority—I recollect when we attempted to examine as to the number of newspapers in the pay of the castle, that the evidence was objected to,) at a season like this, Mr. Finnerty has had the courage, perhaps the folly, to print the publication in question, from no motive under heaven of malice or vengeance, but in the mere duty which he owes to his family, and to the public. His prosecutor is the king's minister in Ireland; in that character does the learned gentleman mean to say, that his conduct is not a fair subject of public observation? where does he find his authority for that, in the law or practice of the sister country? have the virtues, or the exalted station, or the general love of his people preserved the sacred person even of the royal master of the prosecutor, from the asperity and the intemperance of public censure, unfounded as it ever must be, with any personal respect to his majesty, in justice or truth? have the gigantic abilities of Mr. Pitt, have the more gigantic talents of his great antagonist, Mr. Fox, protected either of them from the insolent familiarity, and for aught to know, the injustice with which writers have treated them? What latitude of invective *has the king's* minister escaped upon the subject of the present

war? Is there any epithet of contumely, or of reproach, that hatred or that fancy could suggest, that are not publicly lavished upon him? Do you not find the words, advocate of despotism, robber of the public treasure, murderer of the king's subjects, debaucher of the public morality, degrader of the constitution, tarnisher of the Britsh empire, by frequency of use lose all meaning whatsoever, and dwindle into terms, not of any peculiar reproach, but of ordinary appellation? And why, gentlemen, is this permitted in that country? I'll tell you why;—because in that country they are wise enough to see, that the measures of the state are the proper subject for the freedom of the press; that the principles relating to personal slander do not apply to rulers or to ministers; that to publish an attack upon a public minister, without any regard to truth, but merely because of its tendency to a breach of the peace, would be ridiculous in the extreme. What breach of the peace, gentlemen, I pray you in such a case? is it the tendency of such publications to provoke Mr. Pitt or Mr. Dundas to break the head of the writer, if they should happen to meet him? No, gentlemen, in that country this freedom is exercised, because the people feel it to be their right; and it is wisely suffered to pass by the state, from a consciousness that it would be vain to oppose it: a consciousness confirmed by the event of every incautious experiment. It is suffered to pass from a conviction, that, in a court of justice at least, the bulwarks of the constitution will not be surrendered to the state; and that the intended victim, whether clothed in the humble guise of honest industry, or decked in the honours of genius, and virtue, and philosophy, whether a Hardy, or a Tooke, will find certain protection in the honesty and spirit of an English jury.

But, gentlemen, I suppose Mr. Attorney-general will scarcely wish to carry his doctrine altogether so far. Indeed, I remember, he declared himself a most zealous advocate for the liberty of the press. I may, therefore, even according to him presume to make some observations on the conduct of the existing government. I should wish to know how far he supposes it to extend. Is it to the composition of lampoons and madrigals, to be sung down the grates by ragged ballad-mongers to kitchen-maids and footmen? I will not suppose that he means to confine it to their ebullitions of Billingsgate, to those cataracts of ribaldry and

scurrility, that are daily spouting upon the miseries of our wretched fellow sufferers, and the unavailing efforts of those who have vainly laboured in their cause. I will not suppose that he confines it to the poetic licence of a birth-day ode; the *laureat* would not use such language! In which case I do not entirely agree with him, that the truth or the falsehood is as perfectly immaterial to the law, as it is to the *laureat*, as perfectly unrestrained by the law of the land, as it is by any law of decency or shame, of modesty or decorum. But as to the privilege of censure or blame, I am sorry to say that the learned gentleman has not favoured you with his notion of the liberty of the press. Suppose an Irish viceroy acts a very little absurdly—may the press venture to be respectfully comical upon that absurdity? The learned counsel does not, at least in terms, give a negative to that. But let me treat you honestly, and go further, to a more material point: suppose an Irish viceroy does an act that brings scandal upon his master—that fills the mind of a reasonable man with the fear of approaching despotism, that leaves no hope to the people of preserving themselves and their children from chains, but in common confederacy for common safety. What is that honest man in that case to do? I am sorry *the right honourable advocate for the liberty of the press* has not told you his opinion, at least in any express words. I will therefore venture to give you my far humbler thought upon the subject. I think an honest man ought to tell the people frankly and boldly of their peril; and I must say I can imagine no villany greater than that of his holding a traitorous silence at such a crisis, except the villany and baseness of prosecuting him, or of finding him guilty of such an honest discharge of his public duty. And I found myself on the known principle of the revolution of England, namely, that the crown itself may be abdicated by certain abuses of the trust reposed; and that there are possible excesses of arbitrary power, which it is not only the right but the bounden duty of every honest man to resist at the risk of his fortune and his life. Now, gentlemen, if this reasoning be admitted, and it cannot be denied, if there be any possible event in which the people are obliged to look only to themselves, and are justified in doing so, can you be so absurd as to say, that it is lawful to the people to act upon it when it unfortunately does arrive, but it is criminal in any man to tell them *that the* miserable event has actually arrived, or is imminently

approaching? Far am I, gentlemen, from insinuating that (extreme as it is) our misery has been matured into any deplorable crisis of this kind, from which I pray that the almighty God may for ever preserve us! But I am putting my principle upon the strongest ground, and most favourable to my opponents, namely, that it never can be criminal to say any thing of the government but what is false, and I put this in the extreme in order to demonstrate to you *a fortiori*, that the privilege of speaking truth to the people which holds in the last extremity, must also obtain in every stage of inferior importance; and that however a court may have decided before the late act, that the truth was immaterial in case of libel, that since that act no honest jury can be governed by such a principle.

Be pleased now, gentlemen, to consider the grounds upon which this publication is called a libel, and criminal. Mr. Attorney-general tells you it tends to excite sedition and insurrection. Let me again remind you, that the truth of this charge is not denied by the noble prosecutor. What is it then, that tends to excite sedition and insurrection? "The act that is charged upon the prosecutor, and is not attempted to be denied." And, gracious God! gentlemen of the jury, is the public statement of the king's representative this? "I have done a deed that must fill the mind of every feeling or thinking man with horror and indignation, that must alienate every man that knows it from the king's government, and endanger the separation of this distracted empire; the traverser has had the guilt of publishing this fact, which I myself acknowledge; and I pray you to find him guilty." Is this the case which the lord lieutenant of Ireland brings forward? Is this the principle for which he ventures, at a dreadful crisis like the present, to contend in a court of justice? Is this the picture which he wishes to hold out of himself to the justice and humanity of his own countrymen? Is this the history which he wishes to be read by the poor Irishman of the south and of the north, by the sister nation, and the common enemy?

With the profoundest respect, permit me humbly to defend his excellency, even against his own opinion. The guilt of this publication he is pleased to think consists in this, that it tends to insurrection. Upon what can such a fear be supported? After the multitudes that have perished in this unhappy nation within the last three years, and which has been borne with a patience

unparalleled in the history of nations, can any man suppose that the fate of a single individual could lead to resistance or insurrection? But suppose that it might—what ought to be the conduct of an honest man? Should it not be to apprize the government and the country of the approaching danger? Should it not be to say to the viceroy, you will drive the people to madness if you persevere in such bloody counsels, you will alienate the Irish nation, you will distract the common force, and you will invite the common enemy. Should not an honest man say to the people, the measure of your affliction is great, but you need not resort for remedy to any desperate expedients. If the king's minister is defective in humanity or wisdom, his royal master, and your beloved sovereign, is abounding in both; at such a moment, can you be so senseless as not to feel, that any one of you ought to hold such language? or is it possible you could be so infatuated, as to punish the man who was honest enough to hold it? Or is it possible that you could bring yourselves to say to your country, that at such a season the press ought to sleep upon its post, or to act like the perfidious watchman on his round, that sees the villain wrenching the door, or the flames bursting from the windows, while the inhabitant is wrapt in sleep, and cries out that "'tis past five o'clock, the morning is fair, and all well."

On this part of the case, I shall only put one question to you. I do not affect to say that it is similar in all its points; I do not affect to compare the humble fortunes of Mr. Orr with the sainted names of Russel or Sydney; still less am I willing to find any likeness between the present period and the year 1683. But I will put a question to you, completely parallel in principle. When that unhappy and misguided monarch had shed the sacred blood, which their noble hearts had matured into a fit cement of revolution, if any honest Englishman had been brought to trial for daring to proclaim to the world his abhorrence of such a deed; what would you have thought of the English jury that could have said, we know in our hearts what he said was true and honest; but we will say upon our oaths that it was false and criminal; and we will by that base subserviency add another item to the catalogue of public wrongs, and another argument for the necessity of an appeal to heaven for redress.

Gentlemen, I am perfectly aware that what I say may be easily misconstrued; but if you listen to me with the same fairness

that I address you, I cannot be misunderstood. When I show you the full extent of your political rights and remedies; when I answer those slanderers of British liberty, which degrade the monarch into a despot, who degrade the steadfastness of law into the waywardness of will; when I show you the inestimable stores of political wealth so dearly acquired by our ancestors, and so solemnly bequeathed; and when I show you how much of that precious inheritance has yet survived all the prodigality of their posterity, I am far from saying that I stand in need of it all upon the present occasion. No, gentlemen, far am I indeed from such a sentiment. No man more deeply than myself deplores the present melancholy state of our unhappy country. Neither does any man more fervently wish for the return of peace and tranquillity, through the natural channels of mercy and of justice. I have seen too much of force and of violence to hope much good from the continuance of them on one side, or retaliation from another. I have seen too much of late of political re-building, not to have observed, that to demolish is not the shortest way to repair. It is with pain and anguish that I should search for the miserable right of breaking ancient ties, or going in quest of new relations, or untried adventurers. No, gentlemen, the case of my client rests not upon these sad privileges of despair. I trust that as to the fact, namely, the intention of exciting insurrection, you must see it cannot be found in this publication; that it is the mere idle, unsupported imputation of malice, or panic, or falsehood. And that as to the law, so far has he been from transgressing the limits of the constitution, that whole regions lie between him and those limits which he has not trod; and which I pray to heaven it may never be necessary for any of us to tread.

Gentlemen, Mr. Attorney-general has been pleased to open another battery upon this publication, which I do trust I shall silence, unless I flatter myself too much in supposing that hitherto my resistance has not been utterly unsuccessful. He abuses it for the foul and insolent familiarity of its address. I do clearly understand his idea: he considers the freedom of the press to be the license of offering that paltry adulation which no man ought to stoop to utter, or to hear; he supposes the freedom of the press ought to be like the freedom of the king's jester, who, instead of reproving the faults of which majesty ought to be asham-

ed, is base and cunning enough, under the mask of servile and adulatory censure, to stroke down and pamper those vices of which it is foolish enough to be vain.—He would not have the press presume to tell the viceroy, that the prerogative of mercy is a trust for the benefit of the subject, and not a gaudy feather stuck into the diadem to shake in the wind, and by the waving of the gaudy plumage, to amuse the vanity of the wearer.—He would not have it to say to him, that the discretion of the crown as to mercy, is like the discretion of a court of justice, as to law; and that in the one case as well as the other, wherever the propriety of the exercise of it appears, it is equally a matter of right. He would have the press all fierceness to the people, and all sycophancy to power; he would have it consider the mad and phrenetic depopulations of authority like the awful and inscrutable dispensations of providence, and say to the unfeeling and despotic spoiler in the blasphemed and insulted language of religious resignation—the Lord hath given, and the Lord hath taken away, blessed be the name of the Lord!!! But let me condense the generality of the learned gentleman's invective into questions that you can conceive. Does he mean that the air of this publication is rustic and uncourtly? Does he mean, that when Marcus presumed to ascend the steps of the castle, and to address the viceroy, he did not turn out his toes as he ought to have done? But, gentlemen, you are not a jury of dancing masters?—Or does the learned gentleman mean that the language is coarse and vulgar? If this be his complaint, my client has but a poor advocate. I do not pretend to be a mighty grammarian, or a formidable critic, but I would beg leave to suggest to you in serious humility, that a free press can be supported only by the ardour of men who feel the prompting sting of real or supposed capacity; who write from the enthusiasm of virtue, or the ambition of praise, and over whom, if you exercise the rigour of grammatical censorship, you will inspire them with as mean an opinion of your integrity as your wisdom, and inevitably drive them from their post: and if you do, rely upon it, you will reduce the spirit of publication, and with it the press of this country, to what it for a long interval has been, the register of births, and fairs, and funerals, and the general abuse of the people and their friends.

But, gentlemen, in order to bring this charge of insolence and *vulgarity* to the test, let me ask you, whether you know of any

language which could have adequately described the idea of mercy denied, where it ought to have been granted, or of any phrase vigorous enough to convey the indignation which an honest man would have felt upon such a subject? Let me beg of you for a moment to suppose that any one of you had been the writer of this very severe expostulation with the viceroy, and that you had been the witness of the whole progress of this never to be forgotten catastrophe. Let me suppose that you had known the charge upon which Mr. Orr was apprehended, the charge of abjuring that bigotry which had torn and disgraced his country, of pledging himself to restore the people of his country to their place in the constitution, and of binding himself never to be the betrayer of his fellow-labourers in that enterprise; that you had seen him upon that charge removed from his industry, and confined in a gaol; that through the slow and lingering progress of twelve tedious months you had seen him confined in a dungeon, shut out from the common use of air and of his own limbs; that day after day you had marked the unhappy captive, cheered by no sound but the cries of his family, or the clinking of chains; that you had seen him at last brought to his trial; that you had seen the vile and perjured informer deposing against his life; that you had seen the drunken, and worn out, and terrified jury give in a verdict of death; that you had seen the same jury, when their returning sobriety had brought back their conscience, prostrate themselves before the humanity of the bench, and pray that the mercy of the crown might save their characters from the reproach of an involuntary crime, their consciences from the torture of eternal self-condemnation, and their souls from the indelible stain of innocent blood. Let me suppose that you had seen the respite given, and that contrite and honest recommendation transmitted to that seat where mercy was presumed to dwell; that new and before unheard of crimes are discovered against the informer; that the royal mercy seems to relent, and that a new respite is sent to the prisoner; that time is taken, as the learned counsel for the crown has expressed it, to see whether mercy could be extended or not! that, after that period of lingering deliberation passed, a third respite is transmitted; that the unhappy captive himself feels the cheering hope of being restored to a family that he had adored, to a character that he had never stained, and to a country that he had

ever loved; that you had seen his wife and children upon their knees, giving those tears to gratitude, which their locked and frozen hearts could not give to anguish and despair, and imploring the blessings of eternal providence upon his head, who had graciously spared the father, and restored him to his children: that you had seen the olive branch sent into his little ark, but no sign that the waters had subsided. "Alas! nor wife, nor children more shall he behold, nor friends, nor sacred home!" No seraph mercy unbars his dungeon, and leads him forth to light and life; but the minister of death hurries him to the scene of suffering and of shame; where, unmoved by the hostile array of artillery and armed men collected together, to secure, or to insult, or to disturb him, he dies with a solemn declaration of his innocence, and utters his last breath in a prayer for the liberty of his country. Let me now ask you, if any of you had addressed the public ear upon so foul and monstrous a subject, in what language would you have conveyed the feelings of horror and indignation?—would you have stooped to the meanness of qualified complaint?—would you have been mean enough?—but I entreat your forgiveness—I do not think meanly of you; had I thought so meanly of you, I could not suffer my mind to commune with you as it has done; had I thought you that base and vile instrument, attuned by hope and by fear into discord and falsehood, from whose vulgar string no groan of suffering could vibrate, no voice of integrity or honour could speak, let me honestly tell you, I should have scorned to string my hand across it; I should have left it to a fitter minstrel: if I do not therefore grossly err in my opinion of you, I could use no language upon such a subject as this, that must not lag behind the rapidity of your feelings, and that would not disgrace those feelings, if it attempted to describe them.

Gentlemen, I am not unconscious that the learned counsel for the crown seemed to address you with a confidence of a very different kind; he seemed to expect a kind and respectful sympathy from you with the feelings of the castle, and the griefs of chided authority. Perhaps, gentlemen, he may know you better than I do; if he does, he has spoken to you as he ought; he has been right in telling you, that if the reprobation of this writer is weak, it is because his genius could not make it stronger; he has been right in telling you, that his language has not been braided and festooned as elegantly as it might, that he has not pinched the

miserable plaits of his phraseology, nor placed his patches and feathers with that correctness of millinery which became so exalted a person. If you agree with him, gentlemen of the jury, if you think that the man, who ventures at the hazard of his own life, to rescue from the deep the drowned honour of his country, must not presume upon the guilty familiarity of plucking it up by the locks, I have no more to say; do a courteous thing. Upright and honest jurors, find a civil and obliging verdict against the printer! And when you have done so, march through the ranks of your fellow citizens to your own homes, and bear their looks as they pass along; retire to the bosom of your families and your children, and, when you are presiding over the morality of the parental board, tell those infants who are to be the future men of Ireland, the history of this day. Form their young minds by your precepts, and confirm those precepts by your own example; teach them how discreetly allegiance may be perjured on the table, or loyalty be foresworn in the jury-box; and when you have done so, tell them the story of Orr; tell them of his captivity, of his children, of his crime, of his hopes, of his disappointments, of his courage, and of his death; and when you find your little hearers hanging from your lips, when you see their eyes overflow with sympathy and sorrow, and their young hearts bursting with the pangs of anticipated orphanage, tell them that you had the boldness and the justice to stigmatize the monster—who had dared to publish the transaction! Gentlemen, I believe I told you before, that the conduct of the viceroy was a small part indeed of the subject of this trial. If the vindication of his mere personal character had been, as it ought to have been, the sole object of this prosecution, I should have felt the most respectful regret at seeing a person of his high consideration come forward in a court of public justice, in one and the same breath to admit the truth, and to demand the punishment of a publication like the present; to prevent the chance he might have had of such an accusation being disbelieved, and by a prosecution like this to give to the passing stricture of a newspaper that life and body, and action and reality, that proves it to all mankind and makes the record of it indelible. Even as it is, I do own I feel the utmost concern that his name should have been soiled by being mixed in a question of which it is the mere pretext and scape-goat. Mr. Attorney-general was too

wise to state to you the real question or the object which he wished to be answered by your verdict. Do you remember that he was pleased to say that this publication was a base and foul misrepresentation of the virtue and wisdom of the government, and a false and audacious statement to the world that the king's government in Ireland was base enough to pay informers for taking away the lives of the people. When I heard this statement to-day, I doubted whether you were aware of its tendency or not. It is now necessary that I should explain it to you more at large.

You cannot be ignorant of the great conflict between prerogative and privilege which hath convulsed the country for the last fifteen years; when I say privilege, you cannot suppose that I mean the privileges of the house of commons; I mean the privileges of the people. You are no strangers to the various modes by which the people laboured to approach their object. Delegations, conventions, remonstrances, resolutions, petitions to the parliament, petitions to the throne. It might not be decorus in this place to state to you with any sharpness the various modes of resistance that were employed on the other side; but you, all of you seem old enough to remember the variety of acts of parliament that have been made, by which the people were deprived, session after session, of what they had supposed to be the known and established fundamentals of the constitution; the right of public debate, the right of public petition, the right of bail, the right of trial, the right of arms for self-defence; until at last, even the relics of popular privilege became superseded by military force; the press extinguished; and the state found its last entrenchment in the grave of the constitution. As little can you be strangers to the tremendous confederations of hundreds of thousands of our countrymen, of the nature and the objects of which such a variety of opinions have been propagated and entertained.

The writer of this letter had presumed to censure the recal of Lord Fitzwilliam, as well as the measures of the present viceroy. Into this subject I do not enter; but you cannot yourselves forget that the conciliatory measures of the former noble lord had produced an almost miraculous unanimity in this country; and much do I regret, and sure I am, that it is not without pain you can reflect, how unfortunately the conduct of his successor has ter-

minated. His intentions might have been the best; I neither know them nor condemn them, but their terrible effects you cannot be blind to. Every new act of coercion has been followed by some new symptom of discontent, and every new attack provoked some new paroxysm of resentment or some new combination of resistance. In this deplorable state of affairs, convulsed and distracted within, and menaced by a most formidable enemy from without, it was thought that public safety might be found in union and conciliation, and repeated applications were made to the parliament of this kingdom, for a calm inquiry into the complaints of the people; these applications were made in vain. Impressed by the same motives, Mr. Fox brought the same subject before the commons of England, and ventured to ascribe the perilous state of Ireland to the severity of its government. Even his stupendous abilities, excited by the liveliest sympathy with our sufferings, and animated by the most ardent zeal to restore the strength with the union of the empire, were repeatedly exerted without success. The fact of discontent was denied; the fact of coercion was denied; and the consequence was, the coercion became more implacable, and the discontent more threatening and irreconcileable. A similar application was made in the beginning of this session in the lords of Great Britain, by our illustrious countryman, of whom I do not wonder that my learned friend should have observed, how much virtue can fling pedigree into the shade; or how much the transient honour of a body inherited from man, is obscured by the lustre of an intellect derived from God. He, after being an eye-witness of this country, presented the miserable picture of what he had seen; and to the astonishment of every man in Ireland, the existence of those facts was ventured to be denied; the conduct of the present viceroy was justified and applauded; and the necessity of continuing that conduct was insisted upon, as the only means of preserving the constitution, the peace, and the prosperity of Ireland. The moment the learned counsel had talked of this publication as a false statement of the conduct of the government, and the condition of the people, no man could be at a loss to see that that awful question which had been dismissed from the commons of Ireland, and from the lords and commons of Great Britain, is now brought forward to be tried by a side wind, and in a collateral way, by a criminal prosecution.

I tell you, therefore, gentlemen of the jury, it is not with respect to Mr. Orr that your verdict is now sought: you are called upon on your oaths to say, that the government is wise and merciful, that the people are prosperous and happy, that military law ought to be continued, that the British constitution could not with safety be restored to this country, and that the statements of a contrary import by your advocates in either country were libellous and false. I tell you these are the questions, and I ask you, can you have the front to give the expected answer, in the face of a community who know the country as well as you do? Let me ask you, how could you reconcile with such a verdict, the gaols, the tenders, the gibbets, the conflagrations, the murders, the proclamations that we hear of every day in the streets, and see every day in the country? What are the processions of the learned counsel himself, circuit after circuit? Merciful God! what is the state of Ireland, and where shall you find the wretched inhabitant of this land? You may find him perhaps in gaol, the only place of security, I had almost said, of ordinary habitation; you may see him flying by the conflagrations of his own dwelling; or you may find his bones bleaching on the green fields of his country; or he may be found tossing upon the surface of the ocean, and mingling his groans with those tempests, less savage than his persecutors, that drift him to a returnless distance from his family and his home. And yet, with these facts ringing in the ears and staring in the face of the prosecutors, you are called upon to say, on your oaths, that these facts do not exist. You are called upon, in defiance of shame, of truth, of honour, to deny the sufferings under which you groan, and to flatter the persecution that tramples you under foot.

But the learned gentleman is further pleased to say, that the traverser has charged the government with the encouragement of informers. This, gentlemen, is another small fact that you are to deny at the hazard of your souls, and upon the solemnity of your oaths. You are upon your oaths to say to the sister country, that the government of Ireland uses no such abominable instruments of destruction as informers. Let me ask you honestly, what do you feel, when in my hearing, when in the face of this audience, you are called upon to give a verdict that every man of us, and every man of you, know by the testimony of your own eyes to be utterly and absolutely false? I speak not now of the

public proclamation of informers, with a promise of secrecy and of extravagant reward; I speak not of the fate of those horrid wretches who have been so often transferred from the table to the dock, and from the dock to the pillory; I speak of what your own eyes have seen day after day, during the course of this commission, from the box where you are now sitting; the number of horrid miscreants who avowed upon their oaths that they had come from the very seat of government—from the castle, where they had been worked upon by the fear of death and the hopes of compensation, to give evidence against their fellows; that the mild and wholesome councils of this government are holden over these catacombs of living death, where the wretch that is buried a man, lies till his heart has time to fester and dissolve, and is then dug up a witness.

Is this fancy, or is it fact? Have you not seen him, after his resurrection from that tomb, after having been dug out of the region of death and corruption, make his appearance upon the table, the living image of life and of death, and the supreme arbiter of both? Have you not marked when he entered, how the stormy wave of the multitude retired at his approach? Have you not marked how the human heart bowed to the supremacy of his power, in the undissembled homage of deferential horror? How his glance, like the lightning of heaven, seemed to rive the body of the accused, and mark it for the grave, while his voice warned the devoted wretch of wo and death; a death which no innocence can escape, no art elude, no force resist, no antidote prevent;—there was an antidote—a juror's oath: but even that adamantine chain, that bound the integrity of man to the throne of eternal justice, is solved and melted in the breath that issues from the informer's mouth; conscience swings from her mooring, and the appalled and affrighted juror consults his own safety in the surrender of the victim:—

> Et qua sibi quisque timebat.——
> Unius in miseri exitium conversa tullere.

Gentlemen, I feel I must have tired your patience; but I have been forced into this length by the prosecutor, who has thought fit to introduce those extraordinary topics, and to bring a question of mere politics to trial under the form of a criminal prosecution. I cannot say I am surprised this has been done, or that

you should be solicited by the same inducements, and from the same motives, as if your verdict was a vote of approbation. I do not wonder that the government of Ireland should stand appalled at the state to which we are reduced. I wonder not they should start at the public voice, and labour to stifle or to contradict it. I wonder not that at this arduous crisis when the very existence of the empire is at stake, and when its strongest and most precious limb is not girt with the sword for battle, but pressed by the tourniquet for amputation; when they find the coldness of death already begun in those extremities where it never ends, that they are terrified at what they have done, and wish to say to the surviving parties of that empire, "they cannot say that we did it." I wonder not that they should consider their conduct as no immaterial question for a court of criminal jurisdiction, and wish anxiously, as on an inquest of blood, for the kind acquittal of a friendly jury. I wonder not that they should wish to close the chasm they have opened by flinging you into the abyss. But trust me, my countrymen, you might perish in it, but you could not close it; trust me, if it is yet possible to close it, it can be done only by truth and honor; trust me, that such an effect could no more be wrought by the sacrifice of a jury, than by the sacrifice of Orr. As a state measure, the one would be as unwise and unavailing as the other; but while you are yet upon the brink, while you are yet visible, let me, before we part, remind you once more of your awful situation.—The law upon this subject gives you supreme dominion.- Hope not for much assistance from his lordship. On such occasions, perhaps the duty of the court is to be cold and neutral. I cannot but admire the dignity he has supported during this *trial;* I am grateful for his patience. But let me tell you, it is not his province to fan the sacred flame of patriotism in the jury box; as he has borne with the little extravagances of the law, do you bear with the little failing of the press. Let me therefore remind you, that, though the day may soon come when our ashes shall be scattered before the winds of heaven, the memory of what you do cannot die; it will carry down to your posterity your honour or your shame. In the presence and in the name of that ever living God, I do therefore conjure you to reflect, that you have your characters, your consciences, that you have also the character, perhaps the

ultimate destiny of your country in your hands. In that awful name, I do conjure you to have mercy upon your country and yourselves, and so judge now, as you will hereafter be judged: and I do now submit the fate of my client, and of that country which we yet have in common, to your disposal.

MR. FINNERTY WAS FOUND GUILTY.

SPEECH OF MR. CURRAN,

IN DEFENCE OF

MR. OLIVER BOND, FOR HIGH TREASON.

On Tuesday, July 24th, 1798.

ABSTRACT OF THE INDICTMENT.

Mr. Oliver Bond, you stand indicted, for "not having the fear of God before your eyes, nor the duty of your allegiance considering, but being moved and seduced by the instigation of the devil, you did, with other false traitors, conspire and meet together, and contriving and imagining with all your strength this kingdom to disturb, and to overturn by force of arms, &c. the government of this kingdom, on the 20th day of May, in the thirty-eighth year of the reign of the present king, in the parish of St. Michael the archangel, did conspire and meet together about the means of overturning the government; and his majesty of and from his royal state, power and government of this country to deprive and put; and that you, Oliver Bond, with other false traitors, did meet together and make resolutions to procure arms and ammunition for the purpose of arming men to wage war against our sovereign lord the king; and did conspire to overturn by force the lawful government of this kingdom, and to change by force the government thereof; and did assemble and meet together to raise a rebellion in this kingdom; to procure arms to aid and assist in said rebellion; and that you, Oliver Bond, did aid and cause Thomas Reynolds to be a colonel in the county of Kildare, to aid and assist in the said rebellion, and did administer unlawful oaths to said Thomas Reynolds, and to certain other persons, to be united Irishmen, for the purpose of overturning by force the government of this kingdom; and you, the *said* Oliver Bond, did collect sums of money to furnish arms and

ammunition to the persons in said rebellion, against the duty of your allegiance, contrary to his majesty's peace, his crown and dignity, and contrary to the form of the statute in that case made and provided. And whereas a public war, both by land and sea, is, and hath been carried on by persons exercising the powers of government in France; you, the said Oliver Bond, not having the fear of God before your eyes, did aid and assist the French and men of France to invade this kingdom, to overturn by force the government of this kingdom, and to compass and imagine the death of the king, and so forth. On this indictment you, Oliver Bond, have been this day arraigned, and have pleaded not guilty, and for trial have put yourself on God and your country."

Mr. Curran.—*My lords, and gentlemen of the jury,* I am counsel for the prisoner at the bar—it is my *duty* to lay his case before you. It is a *duty* that at any time would be a *painful* one to me, but at present peculiarly so; having, in the course of this long trial, experienced great fatigue both of mind and of body, a fatigue I have felt in common with the learned judges who preside on the bench, and with my brethren of the bar: I feel, as an advocate for my client, the duty of the awful obligation that has devolved upon me.—I do not mean, gentlemen of the jury, to dilate on my own personal fatigues, for I am not in the habit of considering my personal ill state of health, or the anxiety of my mind, in discharging my duty to clients in such awful situations as in the present momentous crisis; I have not been in the habit, gentlemen of the jury, to expatiate to you on personal ill health; in addressing myself to jurors on any common subject, I have not been in the habit of addressing myself to the interposition of the court, or to the good natured consideration of the jury, on behalf of my client. I have mentioned indeed my own enfeebled worn out body, and my worn out state of mind, not out of any paltry respect to myself, nor to draw your attention to myself, but to induce you to reflect upon this; that in the weakness of the advocate, the case of my client, the prisoner at the bar, is not implicated; for his case is so strong in support of his *innocence,* that it is not to be weakened by the imbecility, or the fatigue of the advocate.

Gentlemen of the jury, I lament that this case has not been brought forward in a simple, and in the usual way, without any extraneous matter being introduced into it, as I think in justice, and as I think in humanity, it ought to have been. I lament that any little artifices should be employed upon so great and solemn a case as this, more especially in desperate times, than upon more ordinary occasions; and some allegations of criminality have been introduced, as to persons and things, that ought not in my opinion to have been adverted to in a case like this. What, for instance, has this case to do with the motion made by lord Moira in the house of lords in Ireland, in February last, or the accidental conversations with lord Edward Fitzgerald? If you have a feeling for virtue, I trust that lord Moira will be revered as a character that adds a dignity to the peerage. What made that noble character forego his great fortune, quit his extensive demesnes, and the tranquillity of the philosophic mind, but in the great and glorious endeavour to do service to his country? I must repeat, he is an honour to the Irish peerage. Let me ask, why was the name of lord Moira, or lord Wycombe (who happened to dine at sir Duke Giffard's) introduced into this trial? what has that motion which lord Moira introduced in the house of lords to do with the trial of Mr. Oliver Bond on a charge of high treason? Gentlemen of the jury, you have been addressed as against a person by whom a fire has been supposed to have been kindled, and this too at the period of its being extinguished. [Some ignorant persons in the crowded gallery having created some noise in the court, prevented the learned advocate a few minutes from proceeding.—The court said they would punish any person who dared to interrupt the counsel for the prisoner, and said they hoped Mr. Curran would be able to proceed in stating the prisoner's case.] Mr. Curran, in continuing—I have very little hope to be able to discharge my *duty;* but I impute the interruption to mere accident; I cannot suppose it was levelled against me, but I am afraid it was excited by prejudice.—[The court remarked, they would maintain the peace and decorum of the court, and they would guard the prisoner from any prejudice. "Mr. Curran, you will state the facts of the prisoner's case to the jury, and shall not be interrupted."]—Mr. Curran, in continuation. Gentlemen of the jury, I was cautioning you against being prejudiced *against* my unfortunate client; I fear there is much reason why

I should caution you against the influence of any prejudice against the prisoner at the bar. You are to decide on your verdict by the evidence given, and the evidence that on the part of the prisoner will be laid before you; and you will see the evidence does not support the prosecution. You will banish any prejudices, and let your verdict be the result of cool and deliberate investigation, and not given in the heat of the season when men's minds may be heated by the circumstances of the times. I shall lay before you the case of my client, to controvert the evidence given on the part of the prosecution, and shall offer to your consideration some observations in point of law, under the judicial control of the court as to matter of law. I will strip my client's case from the extraneous matter that has been attempted to be fastened on it. I feel, gentlemen, the more warm, when I speak to you in favour of my client's innocency, and to bring his innocency home to your judgments. I know the honesty and rectitude of your characters, and I know my client has nothing to fear from your understanding. It is my duty to state to you, we have evidence to prove to you, that the witness on the part of the prosecutor is undeserving of credit, and it is my duty to apprize you, that it is your duty to examine into the moral character of the witness that has been produced; and it is of the utmost concern you should do this, as your verdict is to decide on the life or death, the fame or dishonour of the prisoner at the bar. With respect to prosecutions brought forward by the state, I have ever been of opinion that the decision is to be by the jury; and as to any matter of law, the jury do derive information from the court; for jurors have, by the constitution, a fixed and permanent power to decide on matter of fact, and the letter of the law the sovereign leaves to be expounded by the mouth of the king's judges. Some censure upon some former occasions hath fallen on former judges, from a breach of this doctrine. Upon a former occasion I differed in my opinion from the learned judge who then presided, as to what I conceived to be the law; as to what is to be construed in the law of high treason, as to compassing or imagining the death of the king; I am not ashamed of the opinion in a point of law I entertained, I never shall be ashamed of it. I am extremely sorry I should differ from the bench in opinion on a point of law, but judges have had different opinions upon the same subject: where an overt-act is laid of compassing and imagining the death of the

king, it does not mean in construction of law the natural dissolution of the king; but where there was not the fact acted upon, but confined merely to the *intention* a man had; the proof of such *intention* must, according to lord Coke and sir M. Foster, be proved by *two witnesses* in England; the statute of Edward III. provides against the event of the death of the king by any person levying war, whereby his life might become endangered. The proof of such overt-act must in England be substantiated by two witnesses: how it comes not to be so settled and required in Ireland, is not accounted for. Before the statute of Edward III. the law relative to high treason was undefined, which tended to oppress and harass the people; for, by the common law of England, it was formerly a matter of doubt, whether it was necessary to have two witnesses to prove an overt-act of high treason. Lord Coke says, that in England there must be two witnesses to prove an overt-act; it seems he was afterwards of a contrary opinion; but in the reign of William III. a statute passed, and by that statute it appears there must be *two witnesses;* but when that statute came to be enacted here, the clause relative to there being *two witnesses* to an overt-act of high treason, is not made the law in Ireland; but why it was not required in Ireland is not explained. By the English act of William III. in England, the overt-act must be proved by two witnesses in England, but does not say in *Ireland:* but as the common law of England and the common law of Ireland is the same, the consciences of an Irish jury ought to be fully satisfied by the *testimony of two witnesses* to an overt-act; but, on this point, however, some of the Irish judges are of opinion, that *two witnesses* are not in *Ireland* required to substantiate an overt-act; therefore their opinion must be acquiesced in. Let me suppose that Confucius, Plato, Solon or Tully, or any other great philosopher, was of opinion, on any particular point, as suppose for instance, that on the statute of William III. in order to have a just and equal trial there must be two witnesses to prove an overt-act; Blackstone and Montesquieu are of opinion we should have the equal protection to our liberties; why then should not a jury in Ireland require the same evidence, *i. e.* two witnesses here, as well as in England? (The learned counsel referred to the statute of Eward III., act of king William III. on high treason, Blackstone's commentaries, Montesquieu's spirit of laws, *Coke* on Littleton, and sir Michael Foster's pleas of the crown.)

Gentlemen of the jury, let me state to you in the clearest point of view, the defence of the prisoner at the bar, and see what has been the nature of the evidence adduced. The prisoner at the bar is accused of compassing or imagining the death of the king, and of adhering to the king's enemies: the evidence against him is *parol and written* evidence. Now, gentlemen of the jury, I will venture to observe to you, that as to the *written* evidence, if suffered to go before you by the court, it is only as evidence at large; but as to the credibility of it, that is for you to decide upon.—Mr. Reynolds, in his parol testimony, has sworn, that he was made an united Irishman by the prisoner at the bar.—Mr. Reynolds says, he was sworn to what he considered to be the *objects* of that society: he stated them to you; but whether true or false is for you to determine, by the credit you may give to his testimony. This is the third time Mr. Reynolds has appeared in a court of justice, to prosecute the prisoners. He says, the *objects* of the united Irishmen are to overturn the present government, and to establish a republican form of government in its stead, and to comfort and abet the French, on their invading this kingdom, should such an event take place.—You have heard his testimony: let me ask, do you think him incapable of being a villain? do you think him to be a villain? you observed with what kind of pride he gave his testimony—do you believe his evidence by the solemn oath that you have taken? or do you believe it was a blasted perjury? can you give credit to any man of a blasted character?—It has been the misfortune of many former jurors to have given their verdict founded upon the evidence of a perjured witness, and on their death bed they repented of their credulity. in convicting a man upon false testimony; the history of former ages is replete with such conduct, as may be seen in the state trials, in the case of Lord Kimbolton and Titus Oates—the then jurors convicted that nobleman, but some time after his death, the jurors discovered they had given implicit credit to a witness unworthy of it; and the lawyers of those times might have said, "I thank God they have done the deed."—Does not the history of human infirmity give many instances of this kind? Gentlemen. let me bring you more immediately to the case before you; had we no evidence against Reynolds but his own solitary evidence; from the whole of his evidence, you cannot establish the guilt of the prisoner at the bar; take the whole of his evidence into your

consideration, it may appear he is unworthy of credit. He told you he got information from M'Cann on the Sunday morning, that the meeting was to be on Monday morning at ten o'clock.—Reynolds goes immediately to Mr. Cope and gives him that information.—On Sunday afternoon he goes to lord Edward Fitzgerald, and shows him the orders issued by Captain Saurin to the lawyers' corps: then said lord Edward, I fear government intend to arrest me, I will go to France, and hasten them to invade this country.—Government has no information of the meeting of the provincial delegates at Bond's; no, no, says Reynolds, that is impossible.—Reynolds wrote to Bond he could not attend the meeting, as his wife was ill; Reynolds did not go to the meeting.—Bond was arrested on the Monday morning; on Monday evening, at eight at night, Reynolds goes to lord Edward in Aungier street, met him, and goes again to him the next night, and lord Edward conversed with Reynolds about his [lord Edward,] going to France.—Reynolds then went to Kildare: he gave the most solemn assurance to the delegates at a meeting there, that he never gave information of the meeting at Bond's:—now see how many oaths Reynolds has taken: he admits he took two of the oaths of the obligations to the society of united Irishmen. He told you lord Edward advised him to accept of being a colonel of Kildare united Irishmen's army, and yet he says, he afterwards went to Bond's, and Bond advised Reynolds to be a colonel. It appeared in evidence that Reynolds was treasurer; he took two more oaths, one as colonel, and one as treasurer, and he took the oath of allegiance also; and he took oath to the truth of his testimony, at the two former trials and at this; on which do you give him credit?—Gentlemen, in order to narrow the question under your consideration, as to what Reynolds said, relative to lord Edward's conversation, is totally out of this case; it can have no weight at all on the trial of Mr. Bond for high treason, in the finding of your verdict.—How, or in what manner, is the prisoner at the bar to be affected by it? I submit to your lordship that the declarations of lord Edward to Reynolds, when Bond was not present, is not attachable to the prisoner.—Mr. Reynolds has given you a long account of a conversation he had with Mr. Cope, relative to the proceedings of the society of united Irishmen; and Mr. Cope said, if such a man could be found, as described by Mr. *Reynolds*, he would come forward and give information, he would

deserve the epithet of saviour of his country :—thus by Reynolds's evidence, it would seem that Mr. Cope was the little pony of repentance to drive away the gigantic crimes of the *colossus Reynolds :* —but remember said Mr. Reynolds, though I give information I won't sacrifice my morality ; I won't come forward to prosecute any united Irishman. No, no ; like a bashful girl, higgling about the price of her virginity, I am determined, says Reynolds, to preserve my character—I will give the communiations, but do not think I will descend to be an informer—I will acquaint you of every thing against the united Irishmen, but I must preserve my credit—I tell you the design of the united Irishmen is to overturn the constitution—I will lead you to the threshold of discovery, but I won't name any price of reward—pray don't mention it at all. Says Mr. Cope, a man would deserve a thousand, or fifteen hundred a year and a seat in parliament, or any thing, if he could give the information you mention.—No such thing is required, no such thing, says Reynolds—you mistake me ; I will have nothing in the world but merely a compensation for losses—do you think I would take a bribe ? I ask only of you to give me leave to draw a little bit of a note on you for five hundred guineas, only by way of indemnity, that is all, merely for indemnity of losses I have sustained, or am liable to sustain. Gentlemen of the jury, don't you see the vast distinction between a bribe and gratification ? What says father Foigard ? Consider my conscience : do you think I would take a bribe ? it would grieve my conscience if I was to take a bribe—to be a member of parliament and declare for the ayes or the noes—I will accept of no bribe—I will only take a little indemnity for claret that may be spilt ; for a little furniture that may be destroyed ; for a little wear and tear, for boots and for shoes, for plate destroyed ; for defraying the expenses of some pleasurable jaunts, when out of this country ; for if I become a public informer against the united Irishmen, and should continue here for some time, I may chance at some time to be killed by some of them—for I have sworn to be true to them, and I also took the oath of allegiance to be true to my sovereign—I have taken all sorts of oaths ; if I frequent the company of those who are loyal to the king, they will despise the man who broke his oath of allegiance ; and between the loyalists and the united Irishmen, I may chance to be killed.—As I am in the habit of living in the world, says Mr. Reynolds to

Mr. Cope, you will give me leave to draw a bit of paper on you, only for three hundred guineas at present; it will operate like a bandage to a sore leg: though it won't cure the sore, or the rottenness of the bone, it may hide it from the public view.—I will, says Mr. Reynolds, newly be baptized for a draft of three hundred guineas; and become a public informer for a further bit of paper, only for another two hundred guineas; yet I trust you will excuse me, I will not positively take any more.—He might, I imagine, be compared to a bashful girl, and say, What, shall the brutal arms of man attack a country maid, and she not stipulate for full wages—when her gown shortens, and her apron bursts asunder, and she sinks to the view of public prostitution? perhaps he practised upon her virtue, when she thought he was gaining the affections of that innocent dupe in private.—Do you think that Reynolds would touch a bribe, and become an informer?—no, no; he said he would be no informer. But did he not consent to do a little business in private—and did he not get money for it? Perhaps he said, I thought to be no villain—I would not have the world think me to be a villain; yet as I can confide in myself, why should I mind what the world says of me, though it should call me a villain? but is it not a real fact?—Even though I should become the talk of all the porter-houses, though I should become the talk of all the tea-tables, yet perjury is not brought home to me.—No, no human being has knowledge of what is rankling within? Has it not been said, I was an honest man to come upon the public board as a public informer? they did call me an honest man, and a worthy, a respectable informer, and thus my character is at bay.—The world indeed heard of the progress of these crimes, and that I was unfortunately an united Irishman.—He told you there was a *provincial* meeting of delegates, but he has not ventured to tell you where the *provincial committee* met;—he has simply said, there was a provincial committee.—It was a question of great concern; I have doubts about it.—It is not stated to me what these important consultations were about.—From M'Cann he heard that a *baronial* meeting was to be at Bond's on the 12th of March, and that there was *material business to transact*, and desired Reynolds to attend —that is all that Reynolds heard from M'Cann, and M'Cann is now no more, and this part of the case is in doubt and obscurity. For my part I am not satisfied that any thing criminal did pass

at the meeting at Bond's on the 12th of March—no man can say so—on the evidence produced, they do not say that,—they only *suppose* there was. Was the jury to judge of their own present view, I do not think they would come justly, with their verdict of condemnation. The question is not, whether there was any meeting at Bond's; but, what was the object of the meeting?—Bond was in the ware-house in the custody of the guard: afterwards he came up to the room with Mr. Swan.—At Bond's there was a meeting of the united Irishmen; and though Bond was not taken in that room, yet Bond's charge is mixed with the guilt of that meeting.—The overt-act in the indictment is, of conspiring to levy war, &c. It is material to observe, in this part of the case, it was a *bare conspiracy to levy war;* it is not, as I conceive, high treason; the *bare intention* does not amount to compassing or imagining the death of the king—it is not *adhering* to the *king's enemies;* under certain circumstances, this is not high treason, of compassing the death of the king.—This is the *great hinge, as I apprehend, in this case.* Gentlemen, what was the evidence given? that there was a meeting, for a *dangerous* purpose.—Mr. Cann said, there was to be a meeting of the delegates at Bond's on the 12th of March; he did not tell Reynolds *the purport of that meeting*—therefore, gentlemen, my objection is, was that a *provincial meeting?* it rests on that evidence of the informer, and no other witness. It was M'Cann told Reynolds, you must be at the convention on the 12th of March, to compass the death of the king, and to overturn the government;—but Bond did not tell him any such thing: Bond *only said,* M'Cann *was able to give information* of what was going *forward at that meeting;* but Bond knew nothing about it—though admitting a meeting was held in Bond's house for a guilty purpose, yet Bond might be perfectly *innocent;* he was not in the room till Mr. Swan came: there was to be a watch-word, *is* M'Cann *here?* from thence it would seem it was a meeting at M'Cann's suggestion. Mr. Bond probably did not know *the motive,* when he gave the use of the room; for there was not one word of conversation between Bond and Reynolds.—Reynolds says, M'Cann told him the *watch-word.* M'Cann did *not get the watch-word* from Bond, the prisoner at the bar—the watch-word was, *is* M'Cann *here?* it was for the admission of no person, that M'Cann *did not know;* it had no relation to Mr. Bond. Has this no weight with you, gentlemen of

the jury? do you feel anxious to investigate the truth? If you believe Reynolds, the meeting was for the worst purpose, but was it with the knowledge of Bond? for Bond said to Reynolds, *I can give you no information, go to* M'Cann *he can inform you*—Upon the evidence therefore of Reynolds rests this man's life, for the written evidence found in the room cannot, in my apprehension, affect Bond; he was *not in the room;* if you, as no doubt you will, be of opinion, Bond was *not in the room where the papers were found.*—There is not any evidence of the conversation before Swan came, and he found on the table a paper written on, and the ink not dry, "*I, A. B. was duly elected*"—it was *not found upon the prisoner at the bar:*—the papers found might affect the *persons in the room*—but at the time of the seizure of the papers, Bond was in the ware-house in custody of sergeant Dugan, and was not brought up stairs until *after* the arrest. The papers found upon Bond might be read in evidence against him, but I conceive not those found in the room. What was the intention of mentioning the letter from Reynolds, found on the prisoner at the bar? It was stated, but not read in evidence, merely to apologize for Reynolds's not attending the meeting on the 12th of March: Reynolds says he got it again, and burnt it.—Reynolds did not pretend to state to you, he knew from Bond, what the object of the meeting was;—and it is material to observe, that Bond's name was not found entered in the *list of the persons* who made *returns*, and attended the meeting:—Bond has been resident in this city twenty years; in your walks of life, gentlemen of the jury, you never heard any thing to his prejudice, before this charge.—I know my duty to my client, and must tell you, if you have had prejudices, I know you will discard them; I am not paying you any compliment; I have spoken under the feelings of an Irishman, during the course of these trials; I have endeavoured to speak to your understandings; I have not ventured to entreat you, on behalf of my client, because I am sure you will give your justice and your merits free operation, in your minds and consciences, at this trial. I am sure you will try the cause fairly, and admit every circumstance into your reflections; in a case between the crown and the prisoner, I have not ventured to address you on the public feelings, at this important crisis; you will preserve the subject for the sake of the law, and preserve the law for the sake of the crown. You are to

decide by your sober and deliberate understandings, and hold the balances equal between the crown and the subject, for you are called upon to pronounce your sentence of condemnation or acquittal of the prisoner at the bar.—If you should be mistaken in your verdict, it cannot shake the safety of the state; you are called upon, with the less anxiety, because whichever way your verdict may be, you are not to be told, remember the safety of your king, or your own safety: you are to have in recollection your solemn oath, to decide according to the evidence, and give such a verdict, as may always be satisfactory to your consciences, to the last moment of your existence. The court will tell you, it is your province to decide on matter of fact; and as to opinion on matter of law, the court will explain that to you. Your verdict can never die. As to my opinions of the law, whatever they may be, I shall never have an opportunity of uttering to you again: your verdict will stamp infamy on the prisoner, or support the throne of the law; I need not remind you that the present moment is awful.—My friends, if you suffer your consciences to be influenced, to be degraded, into opinions of the consequences of your verdict; you are bound to decide by the evidences, the glorious privilege of trial by jury!!! If martial law must cut the throat of brotherly affection, the necessity of it will cease, for verdicts of honest jurors will restore your country to peace and tranquillity; and the liberties of your country will by that means be secured; the supreme government of a nation be protected and supported, whatever the form of that government may be: let me however ask, is there no species of law to be resorted to but terror? let me observe to you, that the moral law is destroyed, when it is stained with the effusion of blood; and it is much to be regretted, when the terrors of the criminal law are obliged to be resorted to, to enforce obedience to the common law of the land, by the people; for the sword may cover the land with millions of deluded men.—Is it become necessary to hurl destruction round the land, till it shivers into a thousand particles, to the destruction of all moral law, and all moral obligations?—By the common law of the land, no subject is to be deprived of life, but by a trial by his fellow-subjects; but in times when a rebellion prevails in any country, many suffer without the semblance of a trial by their equals. From the earliest period of history down to the present time, there have been seen in some

parts of the earth, instances where jurors have done little more than record the opinions given to them by the then judges; but it is the last scene of departing liberty. I have read that, in the period of the rebellion, in the last century in England, that jurors on trials by the common law of the land, have been swayed in their determination by the unsupported evidence of an informer, and after-times have proved their verdict was ill founded, and the innocency of the convicted persons had afterwards appeared; trials on charges of high treason are of the utmost moment to the country, not merely with respect to any individual, but of the importance it is to the public that they should know the blessings of trial by jury, and that the jurors will solely determine on their verdict by the evidences, and maturely weigh the *credit of the witnesses* against any prisoner.—Some of these trials of late date some of you have been present at; and you know that the object of the court and the jurors is to investigate the truth from the evidences produced, and the jurors are sworn to decide, and to bring in a true verdict according to the evidences. One witness has been examined on this trial, which I think does not deserve credit; but it is you who are the sole judges whom you will give credit to; but though you know this witness has given evidence on two former trials, and though the then jury did give credit to his testimony, yet you are not to determine on your verdict on the faith or precedent of any former jurors; but you are to be solely guided by your own consciences: and you will observe we have had here two more witnesses to impeach the character of Mr. Reynolds, that were not produced on the former trials; and you will, no doubt, throw out of your minds whatever did not come this day before you in evidence, on the part of the prosecution; and which will come before you on part of the prisoner's defence. You will find your verdict flowing from conscious integrity, and from the feelings of honourable minds; notwithstanding the evidence of the witness, Mr. Reynolds, who has been examined upon the table, and whose testimony I need not repeat to you: perhaps you may be inclined to think, he is a perjured witness; perhaps you will not believe the story he has told against the prisoner at the bar, and of his own turpitude: you will do well to consider it was through a perjured witness, that a Russel and a Sidney were convicted in the reign of James II. —*If* juries are not circumspect to determine *only* by the evi-

dences adduced before them, and not from any extraneous matter, nor from the slightest breath of prejudice, then what will become of our boasted trial by jury; then what will become of our boasted constitution of Ireland? When former jurors decided contrary to evidence, it created great effusion of blood in former times. Let me ask, will you, gentlemen, give a verdict through infirmity of body, or through misrepresentations, or through ignorance? you by your verdict will give an answer to this.—Gentlemen of the jury, you will weigh in your minds, that many inhuman executions did take place in former times; though the then accused underwent the solemnity of a trial, the verdicts of those jurors are not in a state of annihilation, for they remain on the page of history, as a beacon to future jurors; the judges before *whom* the then accused were tried, have long since paid the debt of nature; they cannot now be called to account, why they shrunk from their duty.—I call upon you, gentlemen of the jury, to be firm in the exercise of the solemn duty you are engaged in; should you be of opinion to bring in a verdict of condemnation against my unfortunate client, for myself I ought to care nothing, what impressions may actuate your minds to find such a verdict; it little regardeth me, but it much regardeth you, to consider what kind of men you condemn to die; and, before you write their bloody sentence, consider maturely whether the charge against the prisoner is fully proved. If you should, on the evidences you have heard, condemn the prisoner to death, and afterwards repent it, I shall not live among you to trace any proof of your future repentance.—I said I rose to tell you what evidences we had to produce on behalf of my client, the prisoner at the bar; we shall lay evidence before you, from which you can infer, that the witness produced this day was a perjured man; we have only to show to you, as honest men, that the witness is not deserving of credit on his oath; we have nothing more to offer on behalf of my client, the prisoner at the bar.—It is your province to deliberate in your consciences on what evidence you have heard, and whether you will believe the witness you have heard, on his oath or not.—Let me ask, will you, upon the evidence you have heard, take away the life of a man of this kind, as the prisoner at the bar, from his wife and from his little children for ever? I told you, I was to state to you the evidences which we had to bring forward on behalf of my unfortunate

client; I will tell you it is to discredit the testimony of Mr. Reynolds; when you have heard our evidences to this point, I cannot suppose you will give your verdict to doom to death the unhappy and unfortunate prisoner at the bar, and entail infamy on his posterity. We will also produce respectable witnesses to the hitherto unimpeached character of the prisoner at the bar, that he was a man of fair honest character; you, gentlemen of the jury, have yourselves known him a number of years in this city: let me ask you, do you not know that the prisoner at the bar has always borne the character of a man of integrity, and of honest fame; and, gentlemen of the jury, I call upon you to answer my question by your verdict.—I feel myself imprest with the idea in my breast, that you will give your verdict of acquittal of the prisoner at the bar; and that by your verdict you will declare on your oaths, that you do not believe one syllable that Mr. Reynolds has told you. Let me entreat you to put in one scale, the base, the attainted, the unfounded, the perjured witness; and in the opposite scale, let me advise you to put the testimony of the respectable witnesses produced against Mr. Reynolds, and the witnesses on the prisoner's hitherto unimpeached character; and you will hold the balances with justice, tempered with mercy, as your consciences in future will approve. Let me depart from the scene of beholding human misery, should the life of my client by your verdict be forfeited; should he live by your verdict of acquittal, he would rank as the kindest father, and protector of his little children, as the best of husbands, and of friends, and ever maintain that irreproachable character he has hitherto sustained in private life.—Should our witnesses not exculpate the prisoner from the crimes charged on him, to the extent as charged in the indictment, I pray to God to give you the judgment and understanding to acquit him. Do not imagine I have made use of any arguments to mislead your consciences, or to distress your feelings: no—but if you conceive a doubt in your minds, that the prisoner is innocent of the crime of high treason, I pray to God to give you firmness of mind to acquit him. I now leave you, gentlemen of the jury, to the free exercise of your own judgments in the verdict you may give. I have not, by way of supplication, addressed you in argument; I do not wish to distress your feelings from supplications; it would *be most* unbefitting to your candour and understanding;—you

are bound by your oaths to find a true verdict according to the evidence; and you do not deserve the station of jurors, the constitution has placed you in, if you do not discharge the trust the constitution has vested in you, to give your verdict freely and indifferently, according to your consciences.

MR. BOND WAS FOUND GUILTY.

SPEECH OF MR. CURRAN,

IN DEFENCE OF

LADY PAMELA FITZGERALD, AND HER INFANT CHILDREN,

AT THE BAR OF THE HOUSE OF COMMONS IN IRELAND.

Lord Edward Fitzgerald having died in prison, before trial, of the wound he received in resisting the person who apprehended him, a bill was brought into parliament to attaint him after his death. Mr. Curran was heard at the bar of the House of Commons against the bill, as counsel for the widow and infant children of that nobleman, (the eldest of whom was only four years old,) on which occasion Mr. Curran delivered the following speech.

Mr. Curran.—Mr. Curran said, he rose in support of a petition presented on behalf of lord Henry Fitzgerald, brother of the deceased lord Edward Fitzgerald, of Pamela his widow, Edward his only son and heir, an infant of the age of four years, Pamela his eldest daughter, of the age of two years, and Lucy his youngest child, of the age of three months, against the bill of attainder then before the committee. The bill of attainder, he said, had formed the division of the subject into two parts. It asserted the fact of the late lord Edward's treason; and, secondly, it purported to attaint him, and to vest his property in the crown. He would follow the same order. As to the first bill, he could not but remark upon the strange looseness of the allegation: the bill stated that he had, during his life, and since the first of November last, committed several acts of high treason, without stating what, or when, or where, or with whom: it then affected to state *the* different species of treason of which he had been guilty, *namely*, conspiring to levy war, and endeavouring to persuade

the enemies of the king to invade the country; the latter allegation was not attempted to be proved! the conspiring, without actually levying war, was clearly no high treason, and had been repeatedly so determined. Upon this previous and important question, namely the guilt of lord Edward, (and without the full proof of which no punishment can be just,) he had been asked by the committee, if he had any defence to go into? he was confounded by a question which he could not answer; but upon a very little reflection, he saw in that very confusion the most conclusive proof of the injustice of the bill. For what, he said, can be more flagrantly unjust, than to inquire into a fact, of the truth or falsehood of which, no human being can have knowledge, save the informer who comes forward to assert it. Sir, said he, I now answer the question. I have no defensive evidence! I have no case! it is impossible I should,—I have often of late gone to the dungeon of the captive; but never have I gone to the grave of the dead to receive instructions for his defence—nor in truth have I ever before been at the trial of a dead man? I offer therefore no evidence upon this inquiry; against the *perilous example* of which, I do protest on behalf of the *public*, and against the *cruelty* and *injustice* of which I do protest in the name of the *dead father*, whose *memory* is SOUGHT to be *dishonoured*, and of his *infant orphans*, whose bread is SOUGHT to be taken away. Some observations, and but a few, upon the assertions of Reynolds, I will make. [Mr. Curran then observed upon the credit of Reynolds by his own confession.] I do verily believe him in that instance, even though I have heard him assert it upon his oath, by his own confession, an informer, and a bribed informer;—a man whom even respectable witnesses had sworn in a court of justice upon their oaths not to be credible on his oath;—a man upon whose single testimony no jury ever did, nor ever ought, to pronounce a verdict of guilty;—a kind of man to whom the law resorts with *abhorrence* and from necessity, in order to set the criminal against the crime, but who is made use of by the law upon the same reasons that the *most noxious poisons* are resorted to in medicine. If such the man, look for a moment at his story; he confines himself to mere conversation only, with a dead man. He ventures not to introduce any third person, living or even dead! he ventures to state no act whatever done; he wishes indeed to asperse the conduct of lady Edward Fitzgerald, but he well knew,

that, even were she in the country, she could not be adduced as a witness to disprove him.

See therefore if there be any one assertion to which credit can be given, except this, that he has sworn, and foresworn; that he is a traitor; that he has received five hundred guineas to be an informer, and that his general reputation is to be *unworthy* of *credit.*

As to the papers, it was sufficient to say, that no one of them, nor even all of them, were even asserted to contain any positive proof against lord Edward; that the utmost that could be deduced from them was nothing more than doubt or conjecture, which, had lord Edward been living, might have been easily explained, to explain which was now impossible, and upon which to found a sentence of guilt would be contrary to every rule of justice or humanity.

He would therefore pass to the second question. Was this bill of attainder warranted by the principles of reason? the principles of forfeiture in the law of treason? or the usage of parliament in bills of attainder? The subject was of necessity very long; it had nothing to attract attention, but much to repel it. But he trusted the anxiety of the committee for justice, notwithstanding any dullness either in the subject or in the speaker, would secure to him their attention. Mr. Curran then went into a minute detail of the principles of the law of forfeiture for high treason. The laws of the Persians, and Macedonians, extended the punishment of the traitor to the extinction of all his kindred. That law subjected the property and life of every man to the most complicated despotism, because the loyalty of every individual of his kindred was a matter of wild caprice, as the will of the most arbitrary despot could be.

This principle was never adopted in any period of our law: at the earliest times of the Saxons, the law of treason acted directly only on the person of the criminal; it took away from him what he actually had to forfeit—his life and property. But as to his children, the law disclaimed to affect them directly; they suffered, but they suffered by a necessary consequence of their father's punishment, which the law could not prevent and never directly intended. It took away the inheritance, because the criminal, at the time of taking it away, had absolute dominion *over it,* and might himself have conveyed it away from his family.

This, he said, was proved by the instances of additional fees, at the common law, and estates tail since the statute *de Donis*. In the former case, the tenant did not forfeit, until he had acquired an absolute dominion over the estate by the performance of the condition. Neither in the latter case was the estate tail made forfeitable, until the tenant in tail had become enabled in two ways to obtain the absolute dominion; by a common recovery or by a fine. Until then the issue in tail, though not only the children of the tenant, but taking from him his estate by descent, could not be disinherited by his crime. A decisive proof, that even the early law of treason never intended to extend the punishment of the traitor to his children as such; but even this direct punishment upon the traitor himself, was to take effect only upon a condition suggested by the unalterable rules of natural justice, namely, a judgment founded upon conviction, against which he might have made his defence, or upon an outlawry, where he refused to abide his trial. In that case he was punished, because during his life the fact was triable; because during his life the punishment could act directly upon his person; because during his life the estate was his to convey, and therefore his to forfeit.

But if he died without attainder, a fair trial was impossible, because a fair defence was impossible; a direct punishment upon his person was impossible, because he could not feel it; and a confiscation of his estate was equally impossible, because it was then no longer his, but was then vested in his heir, to whom it belonged by a title as good as that by which it had ever belonged to him in his life time, namely, the known law of the country.

As to a posthumous forfeiture of lands, that appears to have been attempted by inquest after death. But so early as the eighth of Edward the third, the legality of such presentments was disallowed by the judges. And there is no lawyer at this day who can venture to deny, that since the twenty-fifth and thirty-fourth of Edward the third, no estate of inheritance can regularly be forfeited save by attainder in the life of the party; therefore the law of the country being, that unless the descent was interrupted by an actual attainder in the life time of the criminal, it became vested in the heir. The moment it did descend, the heir became seized by a title the most favoured in law. He

might perhaps have been considered as a purchaser for the most valuable consideration, his mother's marriage, of which he was the issue. Why there was posthumous attainder excluded from the protective law of treason? Why has it never since been enacted by a prospective law? clearly for this reason! that in its own nature it is inhuman, impolitic, and unjust.

But it is said, this may be done by a bill of attainder; that the parliament is omnipotent, and therefora may do it; and that it is a proceeding familiar to our constitution. As to the first, it could not be denied that the parliament was in the power of the country; but an argument from the existence of a power to the exercise of it in any particular instance, is ridiculous and absurd. From such an argument it would follow, that it must do whatever it is able to do; and that it must be stripped of the best of all power, the power of abstaining from what is wrong.

Mr. Curran then endeavoured to show that such a bill ought not to pass: first, because every argument against the justice or the policy of a prospective, was tenfold strong against a retrospective law. Because every *ex post facto* law was in itself an exercise of despotical power; that when it altered the law of property it was peculiarly dangerous; that when it punished the innocent for the guilty it was peculiarly unjust; that when it affected to do that which the criminal, as it then stood, could not do, it acted peculiarly against the spirit of the constitution, which was to contract and restrain penal law by the strictest construction, and not to add to it by vindictive innovation. But, he said, he was warranted to go much farther upon the authority of the British legislature itself, and to say, that the principle of forfeiture, even in the prospective law, was altogether repugnant to the spirit of the British constitution.

The statutes of Anne and of George the second, have declared, that after the death of the Pretender and of his sons, no such forfeiture ought nor should exist. In favour of that high authority, every philosophical and theoretic writer, baron Montesquieu, the marquis Beccaria, and many others might be cited. Against it, no one writer of credit or character, that had come to his hands. Of the late Mr. Yorke he did not mean to speak with disrespect; he was certainly a man of learning and genius; but it must be observed, he wrote for a party and for a purpose; he wrote against the repeal of the law of forfeiture more than for

its principle; of that principle he expressly declines entering into a direct defence. But for the extending that principle farther than it is already law, the slightest insinuation cannot be found in his treatise.

But, said Mr. Curran, it is asserted to be the usage of the constitution in both countries. Of bills of attainder, he said, the instances were certainly many, and most numerous in the worst times, and rising above each other in violence and injustice. The most tolerable of them was that which attainted the man who fled from justice, which gave him a day to appear, had he chosen to do so, and operated as a legislative outlawry. That kind of act had been passed, though but rarely, within the present century. There have been many acts of attainder when the party was willing but not permitted to appear and take his trial. In these two kinds of bills of attainder, however, it is to be observed, that they do not any violence to the common law, by the declaring of a new crime or a new punishment, but only by creating a new jurisdiction, and a new order of proceeding. Of the second kind that has been mentioned, many instances are to be found in the violent reigns of the Plantagenets and the Tudors, and many of them revised by the wisdom of cooler and juster times. Of such unhappy monuments of human frailty, lord Coke said, "*auferat oblivio, si non silentium tegat.*"

I beg leave, said Mr. Curran, to differ in that from the learned judge: I say, let the record upon which they are written be indelible and immortal: I say, let the memory that preserves them have a thousand tongues to tell them; and when justice, even late and slow, shall have robbed their fellow principle of life, let them be interred in a monument of negative instruction to posterity for ever.

A third kind of bill of attainder might be found, which for the first time declared the law, and attainted the criminal upon it; such was the attainder of Strafford. A fourth, which did not change the law as to the crime, but as to the evidence upon which it was to be proved; such was the attainder of sir John Fenwick. Of these two last species of attainder, no lawyer has ever spoken with respect; they were the cruel effect of the rancour and injustice of party spirit, nor could any thing be said in their excuse, except that they were made for the direct punishment of the actual criminals, and whilst they were yet living,

The only other attainder that remained possible to be added to this catalogue, was that of a bill like the present, which affects to try after the party's death, when trial is impossible; to punish guilt, when punishment was impossible; to inflict punishment where crime is not even pretended.

To change the settled law of property, to confiscate the widow's pittance! to plunder the orphan's cradle! and to violate the religion of the dead man's grave! For this too there was a precedent; but for the honour of humanity let it be remembered, that a *hundred and forty years* had elapsed in which that precedent had not been thought worthy of imitation in Great Britain: he meant, he said, the attainder of the regicides; upon the restoration, four of them were included in that bill of attainder which was passed after their death.

Mr. Curran then adverted pretty much at large upon the circumstances of that period. A king restored, and by his nature disposed to mercy; a ministry of uncommon wisdom, feeling that the salvation of the state could be secured only by mildness and conciliation; a bigoted, irritated, and interested faction in parliament; the public mind in the highest state of division and agitation. For what then is that act of attainder resorted to as a precedent? Surely it cannot be as a precedent of that servile paroxysm of simulated loyalty with which the same men, who a few days before had shouted after the wheels of the good protector, now raked into the grave of the traitorous usurper, and dragged his wretched carcass through the streets; that servile and simulated loyalty, which affected to bow in obsequious admiration of the salutary lenity which their vindictive folly was labouring to frustrate; that servile and interested hypocrisy, which gave a hollow and faithless support to the power of the monarch, utterly regardless alike of his character or his safety.

That the example which this act of attainder held forth was never respected, appears from this, that it never has been followed in Great Britain, although that country has since that time been agitated by one revolution, and vexed by two rebellions.

So far from extending forfeiture or attainder beyond the existing law, the opinion of that wise and reflecting country was gradually maturing into a dislike of the principle altogether: until at last, by the statutes of Anne and George the second, she declares, that no forfeiture or attainder for treason should pre-

judice any other than the actual offender, nor work any injury to the heir or other person, after the death of a pretender to the throne. Why, said Mr. Curran, has Great Britain thus condemned the principle of forfeiture?—because she felt it to be unjust, and because she found it to be ineffectual.

Here Mr. Curran went into many reasons to prove the impolicy of severe penal laws. They have ever been found, he said, more to exasperate than to restrain: when the infliction is beyond the crime, the horror of the guilt is lost in the horror of the punishment; the sufferer becomes an object of commiseration, and the injustice of the state of public odium. It was well observed, that in England the highwayman never murdered, because there the offender was not condemned to torture! but in France, where the offender was broken on the wheel, the traveller seldom or never escaped! What then is it in England that sends the traveller home with life, but the comparative mildness of English law? what but the merciless cruelty of the French law, that gives the atrocious aggravation of murder to robbery? The multiplication of penal laws lessens the value of life, and when you lessen the value of life, you lessen the fear of death.

Look to the history of England upon this subject with respect to treason: notwithstanding all its formidable array of death, of Saxon forfeiture, and of feudal corruption of blood, in what country do you read of more treasons, or of more rebellions? and why?—because these terrors do not restrain the traitor. Beyond all other delinquents, he is likely to be a person of that ardent, enthusiastic, and intrepid spirit, that is roused into more decisive and desperate daring, by the prospect of peril.

Mr. Yorke thinks the child of the traitor may be reclaimed to his loyalty, by the restitution of his estate. Mr. Yorke, perhaps, might have reasoned better, if he had looked to the still greater likelihood of making him a deadly enemy to the state, by the deadly ignominy inflicted on his father, and by the loss of his own inheritance.

How keenly did Hannibal pursue his vengeance which he had sworn against Rome! how much more enthusiastically would he have pursued his purpose, had that oath been taken upon a father's grave, for the avenging of a father's sufferings—for the avenging of what he would have called a father's wrongs!

If I am called upon, said he, to give more reasons, why this pre-

cedent nas not been for more than a century and a half repeated, I will say, that a bill of attainder is the result of an unnatural union of the legislative and judicial functions, in which the judicial has no law to restrain it; in which the legislative has no rule to guide it, unless passion and prejudice, which reject all rule and law, can be called rules and laws; which puts the lives and properties of men completely at the mercy of an arbitrary and despotic power.

Such were the acts of posthumous attainder in Ireland, in the reign of the arbitrary Elizabeth, who used these arts as a mere mode of robbing an Irish subject, for the benefit of an English minion. Such was the act of the ninth of William III. not passed for the same odious and despicable purpose, but for a purpose equally arbitrary and unjust, the purpose of transferring the property of the country from persons professing one religion, into the hands of those professing another; a purpose manifested and avowed by the remarkable clause in that act, which saves the inheritance to the heir of the traitor, provided that heir be a protestant! nor so brutally tyrannical in its operation, in as much as it gave a right to a traverse and a trial by jury, to every person claiming a right, and protected the rights of infants, until they should be of an age, and capable to assert those rights.

There were yet, Mr. Curran said, other reasons why that precedent of the regicides was not followed in Great Britain. A government that means honestly will appeal to the affection, not to the fears of the people. A state must be driven to the last gasp, when it is driven to seek protection in the abandonment of the law, in that melancholy avowal of its weakness and its fear.

Therefore it was not done in the rebellion of 1715, nor in that of 1745. He had hitherto, he said, abstained from adverting to the late transactions in Ireland; but he could not defraud his clients or their cause, of so pregnant an example. In this country penal laws had been tried beyond any example of any former times; what was the event? the race between penalty and crime was continued, each growing fiercer in the conflict, until the penalty could go no further, and the *fugitive turned upon the breathless pursuer.*

From what a scene of wretchedness and horror have we *escaped*! But, said he, I do not wish to annoy you by the *stench*

of those unburied and unrotted examples of the *havoc* and the *impotence of penal law*, pushed to its extravagance. I am more pleased to turn your attention to the happy consequences of temperate conciliatory government of equal law. Compare the latter with the former, and let your wisdom decide between the tempest and the calm!

I know it is a delicate subject, but let me presume to suggest what must be the impression upon this grieved and anxious country, if the rigour of the parliament shall seem at war with the mildness of the government; if the people shall have refuge in the mercy of the crown from the rigour of their own representatives.

But if, at the same moment, they shall see the convicted and the attainted secured in their lives and in their property, by the wise lenity of the crown, while the parliament is visiting shame and misery, and want, upon the *cradle of the unprotected infant*, who could not have offended?—But I will not follow the idea; I will not see the inauspicious omen; I pray that heaven may avert it.

One topic more, said he, you will permit me to add. Every act of the sort ought to have a practical morality flowing from its principle: if loyalty and justice require that these infants should be deprived of bread, must it not be a violation of that principle to give them food or shelter? Must not every loyal and just man wish to see them, in the words of the famous Golden Bull, "always poor and necessitous, and for ever accompanied by the infamy of their father, languishing in continued indigence, and finding their punishment in living, and their relief in dying."

If the widowed mother should carry the orphan heir of her unfortunate husband, to the gate of any man who might feel himself touched with the sad vicissitudes of human affairs, who might feel a compassionate reverence for the noble blood that flowed in his veins, *nobler than the royalty that first ennobled it*, that, like a rich stream, rose till it ran, and hid its fountain. If, remembering the many noble qualities of his unfortunate father, his heart melted over the calamities of the child; if his heart swelled, if his eyes overflowed, if his too precipitate hand was stretched out by his pity, or his gratitude to the poor excommunicated sufferers, how could he justify the *rebel tear*, or the *traitorous humanity?*

I shall trespass no longer upon the patience for which I am grateful;—one word only, and I have done. And that is, once more, earnestly and solemnly to conjure you to reflect, that the fact—I mean the fact of guilt or innocence, which must be the foundation of this bill,—is not now, after the death of the party, capable of being tried, consistently with the liberty of a free people, or the unalterable rules of eternal justice.

And as to the forfeiture and the ignominy which it enacts, that only can be punishment which lights upon guilt; and that can be only *vengeance* which *breaks* upon INNOCENCE!!

SPEECH OF MR. CURRAN

IN BEHALF OF

MR. JOHN HEVEY, (PLAINTIFF,)

ON AN ACTION FOR AN ASSAULT, AND FALSE IMPRISONMENT

CHARLES HENRY SIRR, Esq. (DEFENDANT.)

COURT OF KING'S BENCH, MONDAY, MAY 17th, 1802.

MR. CURRAN then stated the case for the plaintiff, in substance nearly to the following effect:

He began by telling the jury, it was the most extraordinary action he had ever met with. It must have proceeded from the most unexampled impudence in the plaintiff, if he has brought it wantonly, or the most unparalleled miscreancy in the defendant, if it shall appear supported by proof. And the event must stamp the most condign and indelible disgrace on the guilty defendant, unless an unworthy verdict should shift the scandal upon another quarter. On the record, the action, he said, appeared short and simple; it was an action of trespass, *vi et armis*, for an assault, battery, and false imprisonment. But the facts that led to it, that explain its nature, and its enormity, and of course, that should measure the damages, were neither short nor simple; the novelty of them might surprise, the atrocity must shock their feelings, if they had feelings to be shocked:—but, he said, he did not mean to address himself to any of their proud feelings of liberty; the season for that was past. There was, indeed, he said, a time, when, in addressing a jury upon very inferior violations of human rights, he had felt his bosom glow and swell with the noble and elevating consciousness of being a free-man, speaking to free-men, and in a free country; where, if he was not

able to communicate the generous flame to their bosoms, he was not at least so cold as not to catch it from them. But that was a sympathy, which he was not now so foolish as to affect, either to inspire or to participate. He would not insult them by the bitter mockery of such an affectation; buried as they were, he did not wish to conjure up the shades of departed freedom to flutter round their tomb, to haunt or to reproach them. Where freedom is no more, it is a mischievous profanation to use her language; because it tends to deceive the man who is no longer free, upon the most important of all points, that is, the nature of the situation to which he is reduced; and to make him confound the licentiousness of words with the real possession of freedom. He meant not therefore, he said, to call for a haughty verdict, that might humble the insolence of oppression, or assert the fancied rights of independence. Far from it; he only asked for such a verdict, as might make some reparation for the most extreme and unmerited suffering, and might also tend to some probable mitigation of the public and general destiny. For this purpose, he said, he must carry back their attention to the melancholy period of 1798. It was at that sad crisis, that the defendant, from an obscure individual, started into notice and consequence. It is in the hot-bed of public calamity, that such portentous and inauspicious products are accelerated without being matured. From being a town-major, a name scarcely legible in the list of public incumbrances, he became at once invested with all the real powers of the most absolute authority. The life and the liberty of every man seemed to be given up to his disposal. With this gentleman's extraordinary elevation began the story of the sufferings and ruin of the plaintiff.

It seems, a man of the name of M'Guire was prosecuted for some offence against the state. Mr. Hevey, the plaintiff, by accident was in court; he was then a citizen of wealth and credit, a brewer in the first line of that business. Unfortunately for him, he had heretofore employed the witness for the prosecution, and found him a man of infamous character. Unfortunately for himself he mentioned this circumstance in court. The counsel for the prisoner insisted on his being sworn; he was so. The jury were convinced, that no credit was due to the witness for the crown, and the prisoner was accordingly acquitted. In a day or two after, Major Sirr met the plaintiff in the street, asked

how he dared to interfere in his business? and swore by God he would teach him how to meddle with "his people" Gentlemen, said Mr. Curran, there are two sorts of prophets: one that derives its source from real or fancied inspiration, and who are sometimes mistaken. But there is another class, who prophesy what they are determined to bring about themselves. Of this second, and by far the most authentic class, was the major; for heaven, you see, has no monopoly of prediction. On the following evening, poor Hevey was dogged in the dark into some lonely alley; there he was seized, he knew not by whom, nor by what authority—and became in a moment, to his family, and his friends, as if he had never been. He was carried away in equal ignorance of his crime, and of his destiny; whether to be tortured, or hanged, or transported. His crime he soon learned; it was the treason which he had committed against the majesty of major Sirr. He was immediately conducted to a new place of imprisonment in the castle-yard, called the provost. Of this mansion of misery, of which you have since heard so much, major Sandys was, and I believe yet is, the keeper: a gentleman of whom I know how dangerous it is to speak; and of whom every prudent man will think and talk with all due reverence. He seemed a twin-star of the defendant—equal in honour, in confidence; equal also (for who could be superior?) in probity and humanity. To this gentleman was my client consigned, and in his custody he remained about seven weeks, unthought of by the world, as if he had never existed. The oblivion of the buried is as profound as the oblivion of the dead; his family may have mourned his absence or his probable death; but why should I mention so paltry a circumstance? The fears, or the sorrows of the wretched give no interruption to the general progress of things. The sun rose and the sun set, just as it did before—the business of the government, the business of the castle, of the feast, or the torture, went on with their usual exactness and tranquillity. At last Mr. Hevey was discovered among the sweepings of the prison; and was at last to be disposed of. He was at last honoured with the personal notice of major Sandys.—"Hevey, (says the major,) I have seen you ride, I think, a smart sort of a mare; you can't use her here; you had better give me an order for her." The plaintiff, you may well suppose, by this time had a tolerable idea of his situation; he thought he might have much to fear

from a refusal, and something to hope from compliance; at all events, he saw it would be a means of apprizing his family that he was not dead:—he instantly gave the order required. The major graciously accepted it, saying, your courtesy will not cost you much; you are to be sent down to-morrow to Kilkenny to be tried for your life; you will most certainly be hanged; and you can scarcely think that your journey to the other world will be performed on horseback. The humane and honourable major was equally a prophet with his compeer. The plaintiff on the next day took leave of his prison, as he supposed, for the last time, and was sent under a guard to Kilkenny, then the head quarters of sir Charles Asgil, there to be tried by a court-martial for such crime as might chance to be alleged against him. In any other country, the scene that took place on that occasion might excite no little horror and astonishment: but with us, these sensations are become extinguished by frequency of repetition. I am instructed, that a proclamation was sent forth, offering a reward to *any* man, who would come forward, and give any evidence against the traitor Hevey. An unhappy wretch, who had been shortly before condemned to die, and was then lying ready for execution, was allured by the proposal. His integrity was not firm enough to hesitate long, between the alternative proposed; pardon, favour, and reward, with perjury, on one side; the rope and the gibbet on the other. His loyalty decided the question against his soul. He was examined, and Hevey was appointed by the sentence of a mild, and, no doubt, enlightened court-martial, to take the place of the witness, and succeeded to the vacant halter. Hevey, you may suppose (continued Mr. Curran,) now thought his labours at an end; but he was mistaken: his hour was not yet come. You are probably, gentlemen, or you, my lords, are accounting for his escape, by the fortunate recollection of some early circumstances that might have smote upon the sensibility of sir Charles Asgil, and made him believe, that he was in debt to providence for the life of one innocent though convicted victim. But it was not so; his escape was purely accidental. The proceedings upon this trial happened to meet the eye of lord Cornwallis. The freaks of fortune are not always cruel; in the bitterness of her jocularity, you see she can adorn the miscreancy of the slave, in the trappings of power, and rank, and wealth. But her playfulness is not always

inhuman; she will sometimes, in her gambols, fling oil upon the wounds of the sufferer; she will sometimes save the captive from the dungeon and the grave, were it only, that she might afterwards reconsign him to his destiny, by the reprisal of capricious cruelty upon fantastic commiseration. Lord Cornwallis read the transmiss of Hevey's condemnation; his heart recoiled from the detail of stupidity and barbarity. He dashed his pen across the odious record, and ordered that Hevey should be forthwith liberated. I cannot but highly honour him for his conduct in this instance; nor, when I recollect his peculiar situation at that disastrous period, can I much blame him for not having acted towards that court with the same vigour and indignation, which he hath since shown with respect to those abominable jurisdictions. Hevey was now a man again—he shook the dust off his feet against his prison gate: his heart beat the response to the anticipated embrace of his family and his friends, and he returned to Dublin. On his arrival here, one of the first persons he met with was his old friend, major Sandys. In the eye of poor Hevey, justice and humanity had shorn the major of his beams—he no longer regarded him with respect or terror. He demanded his mare; observing, that though he might have travelled to heaven on foot, he thought it more comfortable to perform his earthly journeys on horseback. Ungrateful villain, says the major; is this the gratitude you show to his majesty and to me, for our clemency to you? You shan't get possession of the beast, which you have forfeited by your treason; nor can I suppose, that a noble animal, that had been honoured with conveying the weight of duty and allegiance, could condescend to load her loyal loins with the vile burden of a convicted traitor. As to the major (said Mr. Curran) I am not surprised that he spoke and acted as he did. He was no doubt astonished at the impudence and novelty of calling the privileges of official plunder into question. Hardened by the numberless instances of that mode of unpunished acquisition, he had erected the frequency of impunity into a sort of warrant of spoil and rapine. One of these instances, I feel, I am now bringing to the memory of your lordship. A learned and respected brother barrister had a silver cup; the major heard that for many years it had borne an inscription of "*Erin go brach*," which meant "*Ireland for ever.*" The major considered this perseverance in guilt for such a length of years

as a forfeiture of the delinquent vessel. My poor friend was accordingly robbed of his cup. But, upon writing to the then attorney general, that excellent officer felt the outrage, as it was his nature to feel every thing that was barbarous or base; and the major's loyal side-board was condemned to the grief of restitution. And here, (said Mr. Curran,) let me say in my own defence, that this is the only occasion, upon which I have ever mentioned this circumstance with the least appearance of lightness. I have often told the story in a way that it would not become me to tell it here. I have told it in the spirit of those feelings, which were excited at seeing, that one man could be sober and humane, at a crisis when so many thousands were drunk and barbarous. And probably my statement was not stinted by the recollection, that I held that person in peculiar respect and regard. But little does it signify, whether acts of moderation and humanity are blazoned by gratitude, by flattery, or by friendship; they are recorded in the heart from which they sprung; and, in the hour of adverse vicissitude, if it should ever come, sweet is the odour of their memory, and precious is the balm of their consolation. But to return: Hevey brought an action for his mare. The major not choosing to come into court, and thereby suggest the probable success of a thousand actions, restored the property, and paid the costs of the suit to the attorney of Mr. Hevey. It may perhaps strike you, my lord, said Mr. Curran, as if I was stating what was not relevant to the action. It is materially pertinent; I am stating a system of concerted vengeance and oppression. These two men acted in concert; they were Archer and Aimwell. You master at Litchfield, and I at Coventry. You plunderer in the gaol, and I tyrant in the street. And in our respective situations we will co-operate in the common cause of robbery and vengeance. And I state this, (said Mr. Curran) because I see major Sandys in court: and because I feel I can prove the fact, beyond the possibility of denial. If he does not dare to appear, so called upon, as I have called upon him, I prove it by his not daring to appear. If he does venture to come forward, I will prove it by his own oath; or if he ventures to deny a syllable that I have stated, I will prove by irrefragible evidence, that his denial was false and perjured. *Thus* far, gentlemen, (said Mr. Curran,) we have traced the *plaintiff* through the strange vicissitudes of barbarous imprison-

ment, of atrocious condemnation, and of accidental deliverance. (Here Mr. Curran described the feelings of himself and of his family upon his restoration; his difficulties on his return; his struggle against the aspersions on his character; his renewed industry; his gradual success; the implacable malignity of Sirr and of Sandys; and of the immediate cause of the present action.) Three years, said Mr. Curran, had elapsed since the deliverance of my client; the public atmosphere had cleared—the private destiny of Hevey seemed to have brightened, but the malice of his enemies had not been appeased. On the 8th of September last, Mr. Hevey was sitting in a public coffee-house: major Sirr was there. Mr. Hevey was informed that the major had at that moment said, that he (Hevey) ought to have been hanged. The plaintiff was fired at the charge; he fixed his eye on Sirr, and asked, if he had dared to say so? Sirr declared that he had, and had said truly. Hevey answered, that he was a slanderous scoundrel. At the instant Sirr rushed upon him, and assisted by three or four of his satellites, who had attended him in disguise, secured him and sent him to the castle guard, desiring that a receipt might be given for the villain. He was sent thither. The officer of the guard chanced to be an Englishman, but lately arrived in Ireland; he said to the bailiffs, if this was in England, I should think this gentleman entitled to bail, but I don't know the laws of this country. However, I think you had better loosen those irons on his wrists, or I think they may kill him.

Major Sirr, the defendant, soon arrived, went into his office, and returned with an order which he had written, and by virtue of which Mr. Hevey was conveyed to the custody of his old friend and goaler, major Sandys. Here he was flung into a room of about thirteen feet by twelve—it was called the hospital of the provost.—It was occupied by six beds, in which were to lie fourteen or fifteen miserable wretches, some of them sinking under contagious diseases. On his first entrance, the light that was admitted by the opening of the door, disclosed to him a view of the sad fellow-sufferers, for whose loathsome society he was once more to exchange the cheerful haunts of men, the use of open air, and of his own limbs; and where he was condemned to expiate the disloyal hatred and contempt, which he had dared to show to the overweening and felonious arrogance of slaves in office, and minions in authority; here he passed the first night,

without bed or food. The next morning his humane keeper, the major, appeared. The plaintiff demanded, "why he was so imprisoned," complained of hunger, and asked for the gaol allowance. Major Sandys replied with a torrent of abuse, which he concluded by saying,—"Your crime is your insolence to major Sirr; however, he disdains to trample on you—you may appease him by proper and contrite submission; but unless you do so, you shall rot where you are.—I tell you this, that if government will not protect us, by God, we will not protect them. You will probably, (for I know your insolent and ungrateful hardiness,) attempt to get out by an habeas corpus; but in that you will find yourself mistaken, as such a rascal deserves." Hevey was insolent enough to issue a habeas corpus, and a return was made upon it—"that Hevey was in custody under a warrant from general Craig, on a charge of treason." That this return was a gross falsehood, fabricated by Sirr, I am instructed to assert.—Let him prove the truth of it if he can. The judge, before whom this return was brought, felt that he had no authority to liberate the unhappy prisoner; and thus, by a most inhuman and malicious lie, my client was again remanded to the horrid mansion of pestilence and famine. Mr. Curran proceeded to describe the feelings of Mr. Hevey—the despair of his friends—the ruin of his affairs—the insolence of Sandys—his offer to set him at large, on condition of making an abject submission to Sirr—the indignant rejection of Hevey—the supplication of his father and sister, rather to submit to any enemy, however base and odious, than perish in such a situation;—the repugnance of Hevey—the repetition of kind remonstrances, and the final submission of Hevey to their entreaties;—his signing a submission, dictated by Sandys, and his enlargement from confinement. Thus, said Mr. Curran, was he kicked from his gaol into the common mass of his fellow slaves, by yielding to the tender entreaties of the kindred that loved him, to sign, what was, in fact, a release of his claim to the common rights of a human creature, by humbling himself to the brutal arrogance of a pampered slave. But he did suffer the dignity of his nature to be subdued by its kindness;—he has been enlarged, and he has brought the present action As to the facts that he had stated, Mr. Curran said, he would make a few observations:—it might be said for the defendant. that much of what was stated may not appear in proof. To

that, he said, he would not have so stated, if he had not seen major Sandys in court; he had therefore put the facts against him in a way, which he thought the most likely to rouse him to a defence of his own character, if he dared to be examined as a witness. He had, he trusted, made him feel, that he had no way of escaping universal detestation, but by denying those charges, if they are false; and if they were not denied, being thus publicly asserted, his entire case was admitted—his original oppression in the provost was admitted—his robbery of the cup was admitted—his robbery of the mare was admitted—the lie so audaciously forged on the habeas corpus was admitted—the extortion of the infamous apology was admitted.—Again, said Mr. Curran, I challenge this worthy compeer of a worthy compeer to make his election, between proving his guilt by his own corporal oath, or by the more credible modesty of his silence. And now, said Mr. Curran, I have given you a mere sketch of this extraordinary history. No country governed by any settled laws, or treated with common humanity, could furnish any occurrences of such unparalleled atrocity; and if the author of Caleb Williams, or of the Simple Story, were to read the tale of this man's sufferings, it might, I think, humble the vanity of their talents, (if they are not too proud to be vain,) when they saw how much a more fruitful source of incident could be found in the infernal workings of the heart of a malignant slave, than in the richest copiousness of the most fertile and creative imagination. But it is the destiny of Ireland to be the scene of such horrors, and to be stung by such reptiles to madness and to death. And now, said Mr. Curran, I feel a sort of melancholy pleasure, in getting rid of this odious and nauseous subject. It remains to me only to make a few observations as to the damages you ought to give, if you believe the case of the plaintiff to be as I have stated. I told you before, that neither pride nor spirit belong to our situation; I should be sorry to influence you into any apish affectation of the port or stature of freedom or independence. But my advice to you is, to give the full amount of the damages laid in the declaration; and I'll tell you why I give you that advice: I think no damages could be excessive, either as a compensation for the injury of the plaintiff, or as a punishment of the savage barbarity of the defendant; but my reasons for giving you this advice lie much deeper than such considerations; they spring from a

view of our present most forlorn and disastrous situation. You are now in the hands of another country; that country has no means of knowing your real condition, except by information that she may accidentally derive from transactions of a public nature. No printer would dare to publish the thousand instances of atrocity, which we have witnessed as hideous as the present, nor any of them, unless he did it in some sort of confidence, that he could scarcely be made a public sacrifice by brutal force, for publishing what was openly proved in a court of justice. Mr. Curran here made some pointed observations on the state of a country, where the freedom of the press is extinguished, and where another nation, by whose indolent mercy, or whose instigated fury, we may be spared, or sacrificed, can know nothing of the extent of our sufferings, or our delinquency, but by casual hearsay. I know, said he, that those philosophers have been abused, who think that men are born in a state of war. I confess I go further, and firmly think they cannot be reclaimed to a state of peace. When I see the conduct of man to man, I believe it. When I see the list of offences in every criminal code of Europe—when I compare the enormity of their crimes with the still greater enormity of their punishments, I retain no doubt upon the subject. But if I could hesitate as to men in the same community, I have no doubt of the inextinguishable malignity that will for ever inflame nation against nation. Well was it said, that a "nation has no heart;" towards each other they are uniformly envious, vindictive, oppressive, and unjust. What did Spain feel for the murders or the robberies of the west?—nothing. And yet, at that time, she prided herself as much as England ever did on the elevation of her sentiment, and the refinement of her morality. Yet what an odious spectacle did she exhibit?—her bosom burning with all the fire of rapine and tyranny; her mouth full of the pious praises of the living God, and her hands red with the blood of his innocent and devoted creatures. When I advise you, therefore, to mark your feelings of the case before you, don't think I mean, that you could make any general impression on the morality, or tenderness of the country, whose property we are become. I am not so foolish as to hope any such effect: practical justice and humanity are virtues that require laborious acts, and mortifying privations; expect not therefore to find them; appeal not to them. But there are principles

and feelings substituted in their place, a stupid preference and admiration of self, an affectation of humanity, and a fondness for unmerited praise; these you may find, for they cost nothing; and upon them you may produce some effect. When outrages of this kind are held up to the world, as done under the sanction of their authority, they must become odious to mankind, unless they let fall some reprobation on the immediate instruments and abettors of such deeds. An Irish lord lieutenant will shrink from the imputation of countenancing them. Great Britain will see, that it cannot be her interest to encourage such an infernal spirit of subaltern barbarity, that reduces man to a condition lower than that of the beast of the field. They will be ashamed of employing such instruments as the present defendant. When the government of Ireland lately gave up the celebrated O'Brien to the hands of the executioner, I have no little reason to believe that they suffered as they deserved on the occasion. I have no doubt, but that your verdict of this day, if you act as you ought to do, will produce a similar effect. And as to England, I cannot too often inculcate upon you, that she knows nothing of our situation. When torture was the daily and ordinary system of the executive government, it was denied in London, with a profligacy of effrontery, equal to the barbarity with which it was exhibited in Dublin; and, if the facts that shall appear to-day should be stated at the other side of the water, I make no doubt, but very near one hundred worthy persons would be ready to deny their existence upon their honour, or, if necessary, upon their oaths.

I cannot also but observe to you, continued Mr. Curran, that the real state of one country is more forcibly impressed on the attention of another, by a verdict on such a subject as this, than it could be by any general description. When you endeavour to convey an idea of a great number of barbarians, practising a great variety of cruelties upon an incalculable multitude of sufferers, nothing defined or specific finds its way to the heart, nor is any sentiment excited, save that of a general erratic unappropriated commiseration. If, for instance, you wished to convey to the mind of an English matron the horrors of that direful period, when, in defiance of the remonstrance of the ever to be lamented Abercromby, our poor people were surrendered to the licentious brutality of the soldiery, by the authority of the state, you would vainly endeavour to give her a general picture of

lust, and rapine, and murder, and conflagration. By endeavouring to comprehend every thing, you would convey nothing. When the father of poetry wishes to portray the movements of contending armies, and an embattled field, he exemplifies only; he does not describe; he does not venture to describe the perplexed and promiscuous conflicts of adverse hosts; but by the acts and fates of a few individuals he conveys a notion of the vicissitudes of the fight, and the fortunes of the day. So should your story to her keep clear of generalities; instead of exhibiting the picture of an entire province, select a single object; and even in that single object do not release the imagination of your hearer from its task, by giving more than an outline; take a cottage; place the affrighted mother of her orphan daughters at the door, the paleness of death upon her face, and more than its agonies in her heart; her aching heart, her anxious ear, struggling through the mist of closing day, to catch the approaches of desolation and dishonour. The ruffian gang arrives, the feast of plunder begins, the cup of madness kindles in its circulation. The wandering glances of the ravisher become concentrated upon the shrinking and devoted victim.—You need not dilate, you need not expatiate; the unpolluted mother, to whom you tell the story of horror, beseeches you not to proceed; she presses her child to her heart, she drowns it in her tears, her fancy catches more than an angel's tongue could describe; at a single view she takes in the whole miserable succession of force, of profanation, of despair, of death.—So it is in the question before us. If any man shall hear of this day's transaction, he cannot be so foolish as to suppose that we have been confined to a single character like those now brought before you. No, gentlemen; far from it; he will have too much common sense, not to know, that outrages like this are never solitary; that where the public calamity generates imps like those, their number is as the sands of the sea, and their fury as insatiable as its waves. I am therefore anxious, that our *masters* should have one authenticated example of the treatment which our unhappy country suffers under the sanction of their authority; it will put a strong question to their humanity, if they have any—to their prudence, if their pride will let them listen to it; or, at least, to that anxiety for reputation, to that pretention to the imaginary virtues of mildness and mercy, to which even those countries the most divested of them are so

ready to assert their claim, and so credulously disposed to believe that claim allowed.

There are some considerations respecting yourselves, and the defendant, to which I should wish to say a word. You may perhaps think your persons unsafe, if you find a verdict against so considerable a person. I know his power, as well as you do—I know he might send you to the provost, as he has done the plaintiff, and forge a return on any writ you might issue for your deliverance—I know there is no spot in this devoted nation, (except that on which we now are,) where the story of oppression can be told or heard; but I think you can have no well founded apprehensions. There is a time, when cruelty and oppression become satiated and fatigued; in that satiety at least you will find yourselves secure. But there is still a better security for you: the gratitude of the worthy defendant—if any thing could add to his honours, and his credit, and his claims, it would be your verdict for the plaintiff; for in what instance have you ever seen any man so effectually accredited and recommended, as by the public execration? What a man, for instance, might not O'Brien have been, if the envy of the gibbet had not arrested the career of his honours and preferments? In every point of view, therefore, I recommend to you to find, and to find liberally for the plaintiff. I have founded my advice upon the real circumstances of your situation; I have not endeavoured to stimulate you into any silly hectic of fancied liberty. I do not call upon you to expose yourselves by the affectation of vindicating the cause of freedom and humanity; much less do I wish to exhibit ourselves to those whose property we are, as indignant or contumacious under their authority. Far from it, they are unquestionably the proprietors of us; they are entitled of right to drive us, and to work us; but we may be permitted modestly to suggest, that for their own sakes, and for their own interest, a line of moderation may be drawn. That there are excesses of infliction that human nature cannot bear. With respect to her western negroes, Great Britain has had the wisdom, and humanity to feel the justice of this observation, and in some degree to act upon it; and I have too high an opinion of that great and philosophical nation, not to hope, that she might think us not undeserving of equal mildness; provided it did not interfere with her just authority over us. It would, I should even think, be for

her credit, that having the honour of so illustrious a rider, we should be kept in some sort of condition, somewhat bordering upon spirit, which cannot be maintained, if she suffers us to be utterly broken down, by the malicious wantonness of her grooms and jockeys. Mr. Curran concluded by saying, that the cause was of no inconsiderable expectation; and that in whatever light the jury regarded it, whether with respect to the two countries, or Ireland singly, or to the parties concerned, or to their own sense of character and public duty, or to the natural consequences that must flow from the event, they ought to consider it with the most profound attention, before they agreed upon their verdict.

VERDICT FOR THE PLAINTIFF, 150L. DAMAGES AND COSTS.

SPEECH OF MR. CURRAN,

IN

DEFENCE OF OWEN KIRWAN,

FOR HIGH TREASON;

AT THE SESSION HOUSE, GREEN STREET, ON SATURDAY, OCTOBER 1, 1803.

MR. CURRAN rose and said, that it had become his duty to state to the court and jury the defence of the prisoner. He said he had been chosen for that very unpleasant task, without his concurrence or knowledge; but as soon as he was apprised of it, he accepted it without hesitation. To assist a human being labouring under the most awful of all situations, trembling in the dreadful alternative of honourable life, or ignominious death, was what no man, worthy of the name, could refuse to man: but it would be peculiarly base in any person who had the honour of wearing the king's gown, to leave the king's subject undefended, until a sentence pronounced upon him had shown, that neither in fact, nor in law, could any defence avail him. He could not, however, but confess, that he felt no small consolation when he compared his present with his former situation upon similar occasions.—In those sad times to which he alluded, it was frequently his fate to come forward to the spot where he then stood, with a body sinking under infirmity and disease, and a mind broken with the consciousness of public calamity, created and exasperated by public folly. It had pleased heaven that he should live to survive both those afflictions, and he was grateful to its mercy. I now, said he, come here through a composed and quiet city—I read no expression in any face, save such as marks the ordinary feelings of social life, or the various characters of civil occupation —I see no frightful spectacle of infuriated power, or suffering humanity—I see no tortures—I hear no shrieks—I no longer see

the human heart charred in the flame of its own vile and paltry passions—black and bloodless—capable only of catching and communicating that destructive fire by which it devours, and is itself devoured.—I no longer behold the ravages of that odious bigotry by which we were deformed, and degraded, and disgraced—a bigotry against which no honest man should ever miss an opportunity of putting his countrymen, of all sects and of all descriptions, upon their guard: it is the accursed and promiscuous progeny of servile hypocrisy, of remorseless lust of power—of insatiate thirst of gain—labouring for the destruction of man, under the specious pretences of religion—her banner stolen from the altar of God, and her allies congregated from the abysses of hell, she acts by votaries to be restrained by no compunctions of humanity, for they are dead to mercy; to be reclaimed by no voice of reason, for refutation is the bread on which their folly feeds: they are outlawed alike from their species and their Creator; the object of their crime is social life, and the wages of their sin is social death; for though it may happen that a guilty individual should escape from the law that he has broken, it cannot be so with nations: their guilt is too extensive and unwieldy for such escape: they may rest assured that Providence has, in the natural connexion between causes and their effects, established a system of retributive justice, by which the crimes of nations are sooner or later avenged by their own inevitable consequences. But that hateful bigotry—that baneful discord, which fired the heart of man, and steeled it against his brother, has fled at last, and I trust for ever. Even in this melancholy place I feel myself restored and recreated by breathing the mild atmosphere of justice, mercy, and humanity—I feel I am addressing the parental authority of the law—I feel I am addressing a jury of my countrymen, my fellow subjects, and my fellow christians—against whom my heart is waging no concealed hostility—from whom my face is disguising no latent sentiment of repugnance or disgust. I have not now to touch the high raised strings of an angry passion in those that hear me—nor have I the terror of thinking, that if those strings cannot be snapt by the stroke, they will be only provoked into a more instigated vibration.

Mr. Curran then proceeded to observe, that this happy change in the minds and feelings of all men was the natural consequences of that system of mildness and good temper which had been

recently adopted, and which he strongly exhorted the jury to imitate, and to improve upon—that they might thereby demonstrate to ourselves, to Great Britain, and to the enemy, that we were not that assemblage of fiends which we had been alleged to be—unworthy of the ordinary privilege of regular justice, or the lenient treatment of a merciful government.—He said, it was of the utmost importance to be on their guard against the wicked and mischievous representation of the circumstances which called them then together—they ought not to take from any unauthenticated report those facts which they could have directly from sworn evidence. He had heard much of the dreadful extent of the conspiracy against this country—of the narrow escape of the government. They now saw the fact as it was. By the judicious adoption of a mild and conciliatory system of conduct, what was six years ago a formidable rebellion, had now dwindled down to a drunken, riotous insurrection—disgraced, certainly, by some odious atrocities—its objects, whatever they were, no doubt, highly criminal; but, as an attack upon the state, of the most contemptible insignificance.—He did not wonder that the patrons of burning and torture should be vexed that their favourite instruments were not employed in recruiting for the rebellion. He had no doubt but that had they been so employed, the effect would have followed, and that an odious, drunken insurrection, would have been easily swelled into a formidable rebellion—nor was it strange that persons so mortified should vent themselves in wanton exaggerated misrepresentations, and in unmerited censure—in slandering the nation in the person of the viceroy—and the viceroy in the character of the nation—and that they should do so, without considering that they were weakening the common resources against common danger, by making the different parts of the empire odious to each other; and by holding out to the enemy, and falsely holding out, that we were too much absorbed in civil discord to be capable of effectual resistance. In making this observation, he said his wish was merely to refute a slander upon his country. He had no pretensions to be the vindicator of the lord lieutenant of Ireland, whose person he did not know that he had ever seen: at the same time he said, that when he was so necessarily forced upon the subject, he felt no disposition to conceal the respect and satisfaction with which he saw the king's representative comport himself as he did, at a

crisis of no little anxiety, though of no considerable danger, if we may believe the evidence we have heard. He thought it was a proof of his excellency's firmness and good sense, not to discredit his own opinion of his confidence in the public safety, by an ostentatious display of unnecessary open preparation; and he thought he did himself equal honour by preserving his usual temper, and not suffering himself to be exasperated by the event, when it did happen, into the adoption of any violent or precipitate measures. Perhaps he [Mr. Curran] might even be excused if he confessed that he was not wholly free from some professional vanity, when he saw, that the descendant of a great lawyer was capable of remembering, what, without the memory of such an example, he perhaps might not have done, that even in the moment of peril the law is the best safeguard of the constitution. At all events, he felt, that a man, who at all times had so freely censured the extravagances of power and force as he had done, was justified, if not bound, by the consistency of character, to give the fair attestation of his opinion to the exercise of wisdom and humanity *wherever* he found them; whether in a friend or in a stranger. He hoped, he said, that these preliminary observations were not wantonly and irrelevantly delaying them from the question which they were to try, and which he was ready to enter into; but there still remained a circumstance to be observed upon for a moment, before they entered upon the real subject of their inquiry, the guilt or innocence of the prisoner; the fact that had been so impressively stated: the never to be too much lamented fate of that excellent man lord Kilwarden—(and here Mr. Curran drew a character of him, as marked by the most scrupulous anxiety for justice, and by the mildest and tenderest feelings of humanity.)—But, said he, let us not wantonly slander the character of the nation by giving any countenance to the notion, that the horror of such a crime could be extended farther than the actual perpetration of the deed. The general indignation, the tears that were shed at the sad news of his fate, show that we are not that nest of demons on whom any general stigma could attach from such an event; the wicked wretch himself, perhaps, has cut off the very man, through whose humanity he might have escaped the consequences of other crimes; and by an hideous aggravation of his guilt, has given another motive to Providence to trace the murderer's steps, and secure the certain-

ty of his punishment; but on this occasion the jury should put it out of their minds, and think nothing of that valuable man, save his last advice, "that no person should perish but by the just sentence of the law;" and that advice he hoped they would honour, not by idle praise, but by strict observance.

Mr. Curran now proceeded to state the charge in the indictment, and the evidence adduced; and contended that the testimony showed no fact of conspiracy—no adopted object of treason—no actual attack—no number of persons engaged that could possibly be adequate to the accomplishment of such an object. He strongly reprobated the idea of acting upon what was called notoriety of rebellion—notoriety was at best but another name for reputation, which could not, even by law, be given in evidence in any criminal case, and which *a fortiori* could not sustain a verdict of conviction; but, he said, if the actual evidence of the guilt was thus weak, it was not unfair to consider the probability of such a conspiracy at the present time. It was clear from the evidence, that it could not be imputed to any particular sect, or party, or faction, because no sect or faction could fail, had they acted in it, of engaging one hundred times the number of deluded instruments in their design. We may then fairly ask, is it likely that the country at large, setting even apart all moral tie of duty, or allegiance, or the difficulty, or the danger, could see any motive of interest to recommend to them the measure of separating from England, or fraternizing with France? Whether there was any description of men in Ireland who could expect any advantage from such a change? And this reasoning, he said, was more pertinent to the question, because politics were not now, as heretofore, a dead science, in a dead language; they had now become the subject of the day, vernacular and universal, and the repose which the late system of Irish government had given the people for reflection, had enabled them to consider their own condition, and what they, or any other country, could have to hope from France, or rather from its present master. He said he scorned to allude to that personage merely to scold or to revile him; unmeaning obloquy may show that we do not love the object, but certainly that we do not fear him.—He then adverted to the present condition of Bonaparte; a stranger—an usurper—getting possession of a numerous, proud, volatile, and capricious people; getting that possession by military

force—able to hold it only by force: to secure his power he found, or thought he found it necessary to abolish all religious establishments, as well as all shadow of freedom. He had completely subjugated all the adjoining nations. Now, said Mr. Curran, it is clear that there are but two modes of holding states or the members of the same state together, namely, community of interest or predominance of force—the former is the natural bond of the British empire; their interest, their hopes, their dangers can be no other than one and the same, if they are not stupidly blind to their own situation; and stupidly blind indeed must they be, and justly must they incur the inevitable consequences of that blindness and stupidity, if they have not fortitude and magnanimity enough to lay aside those mean and narrow jealousies, which have hitherto prevented that community of interest and unity of effort, by which alone we can stand, and without which we must fall together. But force only can hold the requisitions of the French consul;—what community of interest can we have with the different nations that he has subdued and plundered?—clearly none. Can he venture to establish any regular and protected system of religion amongst them? Wherever he erected an altar, he would set up a monument of condemnation and reproach upon those wild and fantastic speculations which he is pleased to dignify with the name of Philosophy, but which other men, perhaps, because they are endowed with a less aspiring intellect, conceive to be a desperate anarchical atheism, giving to every man a dispensing power for the gratification of his passion, teaching him that he may be a rebel to his conscience with advantage, and to his God with impunity. Just as soon would the government of Britain venture to display the Crescent in their churches, as an honorary member of all faiths to show any reverence to the Cross in his dominions. Apply the same reasoning to liberty:—can he venture to give any reasonable portion of it to his subjects at home, or his vassals abroad? The answer is obvious: sustained merely by military force, his unavoidable policy is to make *the army every thing*, and *the people nothing*. If he ventured to elevate his soldiers into citizens, and his wretched subjects into freemen, he would form a confederacy of mutual interest between both, against which he could not exist a moment. If he relaxed in like manner with Holland, or Belgium, or Switzerland, or Italy, and withdrew his armies from them, he

would excite and make them capable of instant revolt. There is one circumstance which just leaves it possible for him not to chain them down still more rigorously than he has done, and that is, the facility with which he can pour military reinforcements upon them in case of necessity. But destitute as he is of a marine, he could look to no such resource with respect to any insular acquisition, and of course he should guard against the possibility of danger by so complete and merciless a thraldom as would make any effort of resistance physically impossible.—Perhaps, my lords and gentlemen, continued Mr. Curran, I may be thought the apologist, instead of the reviler of the ruler of France. I affect not either character.—I am searching for the motives of his conduct, and not for the topics of his justification. I do not affect to trace those motives to any depravity of heart or of mind which accident may have occasioned for the season, and which reflection or compunction may extinguish or allay, and thereby make him a completely different man with respect to France and to the world; I am acting more fairly and more usefully by my country, when I show, that his conduct must be so swayed by the permanent pressure of his situation, by the control of an unchangeable and inexorable necessity, that he cannot dare to relax or relent without becoming the certain victim of his own humanity or contrition. I may be asked are these merely my own speculations, or have others in Ireland adopted them; I answer freely, *non meus hic sermo est.* It is, to my own knowledge, the result of serious reflection in numbers of our countrymen. In the storm of arbitrary sway, in the distraction of torture and suffering, the human mind had lost its poise and its tone, and was incapable of sober reflection; but, by removing those terrors from it, by holding an even hand between all parties, by disdaining the patronage of any sect or faction, the people of Ireland were left at liberty to consider her real situation and interest, and happily for herself, I trust in God, she has availed herself of the opportunity. With respect to the higher orders even of those who thought they had some cause to complain, I know this to be the fact: they are not so blind as not to see the difference between being proud and jealous, and punctilious in any claim of privilege or right between themselves and their fellow-subjects, and the mad and desperate depravity of seeking the redress of any dissatisfaction that they might feel, by an appeal to force, or

to the dreadful recourse to treason and to blood. As to the humbler orders of our people, for whom I confess I feel the greatest sympathy, because there are more of them to be undone, and because, from want of education, they must be more liable to delusion; I am satisfied the topics to which I have adverted apply with still greater force to them than to those who are raised above them. I have not the same opportunity of knowing their actual opinions; but if their opinions be other than I think they ought to be, would to God they were present in this place, or that I had the opportunity of going into their cottages, and they well know I should not disdain to visit them, and to speak to them the language of affection and candour on the subject; I should have little difficulty in showing to their quick and apprehensive minds, how easy it is, when the heart is incensed, to confound the evils which are inseparable from the destiny of imperfect man, with those which arise from the faults or errors of his political situation: I would put a few questions to their candid and unadulterated sense: I would ask them—Do you think that you have made no advance to civil prosperity within the last twenty years? Are your opinions of modern and subjugated France the same that you entertained of popular and revolutionary France fourteen years ago? Have you any hope, that if the first consul got possession of your island, he would treat you half so well as he does those countries at his door, whom he must respect more than he can respect or regard you? And do you know how he treats those unhappy nations? You know that in Ireland there is little personal wealth to plunder—that there are few churches to rob.—Can you then doubt that he would reward his rapacious generals and soldiers by parcelling out the soil of the island among them, and by dividing you into lots of serfs to till the respective lands to which they belonged? Can you suppose that the perfidy and treason of surrendering your country to an invader, would to your new master be any pledge of your allegiance? Can you suppose that while a single French soldier was willing to accept an acre of Irish ground, that he would leave that acre in the possession of a man, who had shown himself so wickedly and so stupidly dead to the suggestions of the most obvious interest, and to the ties of the most imperious moral obligations? What do you look forward to with respect to the aggrandisement of your sect? Are you protestants? He has

abolished protestantism with christianity. Are you catholics? Do you think he will raise you to the level of the pope? Perhaps, and I think he would not; but if he did, could you hope more privilege than he has left his holiness? And what privilege has he left him? He has reduced his religion to be a mendicant for contemptuous toleration, and he has reduced his person to beggary and to rags. Let me ask you a further question—Do you think he would feel any kind-hearted sympathy for you? Answer yourselves by asking, what sympathy does he feel for Frenchmen, whom he is ready by thousands to bury in the ocean, in the barbarous gambling of his wild ambition? What sympathy then could bind him to you? He is not your countryman—the scene of your birth and your childhood is not endeared to his heart by the reflection, that it was also the scene of his; he is not your fellow christian—he is not, therefore, bound to you by any similarity of duty in this world, or by any union of hope beyond the grave. What then could you suppose the object of his visit, or the consequence of his success? Can you be so foolish as not to see, that he would use you as slaves, while he held you, and that when he grew weary, which he soon would become, of such a worthless and precarious possession, he would carry you to market in some treaty of peace, barter you for some more valuable concession, and surrender you to expiate by your punishment and degradation, the advantage you had given him by your follies and your crimes? There is another topic on which a few words might be addressed to the deluded peasant of this country: he might be asked—What could you hope from the momentary success of any effort to subvert the government by mere intestine convulsion? Could you look forward to the hope of liberty or property; where are the characters, the capacities, and the motives of those that have embarked in those chimerical projects—you see them a despicable gang of needy adventurers; desperate from guilt and poverty: uncountenanced by a single individual of probity or name; ready to use you as the instruments, and equally ready to abandon you by treachery or flight, as the victims of their crimes. For a short interval murder and rapine might have their sway; but don't be such a fool as to think, that though robbing might make a few persons poor, it could make many persons rich Don't be so silly as to confound the destruction of property with the partition of wealth. Small must be

your share of the spoil, and short your enjoyment of it. Soon, trust me, very soon, would such a state of things be terminated by the very atrocities of its authors. Soon would you find yourselves subdued, ruined and degraded. If you looked back, it would be to character destroyed, to hope extinguished. If you looked forward, you could see only the dire necessity you had imposed upon your governors of acting towards you with no feeling but those of abhorrence, and of self-preservation—of ruling you by a system of coercion, of which alone you would be worthy —and of loading you with taxes (that is, selling the food and rai ment which your honest labour might earn for your family,) to defray the expense of that force, by which only you could be restrained.

Say not, gentlemen, that I am inexcusably vain when I say, would to God that I had an opportunity of speaking this plain, and, I trust, not absurd language to the humblest orders of my countrymen. When I see what sort of missionaries can preach the doctrines of villany and folly with success, I cannot think it very vain to suppose, that they would listen with some attention and some respect to a man who was addressing plain sense to their minds, whose whole life ought to be a pledge for his sincerity and affection—who had never in a single instance deceived, or deserted, or betrayed them—who had never been seduced to an abandonment of their just rights, or a connivance at any of their excesses, that could threaten any injury to their character.

But perhaps, said Mr. Curran, I have trespassed too much upon your patience by what may appear a digression from the question. The motive of my doing so, I perceive by your indulgent hearing, you perfectly comprehend. But I do not consider what I have said as a mere irrelevant digression with respect to the immediate cause before you. The reasoning comes to this: the present state of this country shows, that nothing could be so stupidly and perversely wicked as a project of separation, or of French connexion—and, of course, nothing more improbable than the adoption of such a useless project. If it be then so senseless, and therefore so improbable, how strong ought the evidence be, on which you would be warranted in attesting, on your oaths, to England and to France, so odious an imputation on the good sense and loyalty of your country. Let me revert again to the *evidence* which you have heard to support so incredible a charge.

I have already observed on the contemptible smallness of the number—a few drunken peasants assemble in the outlets; there, in the fury of intoxication they committed such atrocities as no man can be disposed to defend or to extenuate; and having done so, they fly before a few peace officers, aided by the gallantry of Mr. Justice Drury—who, even if he did retreat, as has been insinuated, has at least the merit of having no wish to shed the blood of his fellow christians, and is certainly entitled to the praise of preserving the life of a most valuable citizen and loyal subject.

In this whole transaction, no attempt, however feeble or ill-directed, is made on any place belonging to or connected with the government. They never even approach the barrack, the castle, the magazines. No leader whatsoever appears; nothing that I can see to call for your verdict, except the finding the bill and the uncorroborated statement of the attorney-general. In that statement, too, I must beg leave to guard you against mistake in one or two particulars:— as to what he said of my lord Kilwarden, it was not unnatural to feel as he seemed to do, at the recollection, nor to have stated that sad event as a fact that took place on that occasion—but I am satisfied, he did not state it with the least intention of agitating your passions, or letting it have the smallest influence on your judgment in your inquiry into a charge of treason. I must beg leave also to say, that no recital in any statute, is any evidence whatsoever of the existence of any particular fact of treason or treasonable conspiracy. I must further desire you to blot completely from your minds the reference which he was pleased to make to the verdict of yesterday. And, in truth, when I see the evidence on which you are to decide reduced to what is legal or admissible, I don't wonder that Mr. Attorney-general himself should have treated this doughty rebellion with the laughter and contempt it deserved.

Where now is this providential escape of the government and the castle? Why simply in this, that nobody attacked either the one or the other; and that there were no persons that could have attacked either. It seems not unlike the escape which a young man had of being shot through the head at the battle of Dettingen, by the providential interference by which he was sent twenty miles off on a foraging party only ten days before the battle.

I wish from my heart that there may be now present some

worthy gentleman, who may transmit to Paris a faithful account of what has this day passed. If so, I think some loyal absentee may possibly find an account of it in the Publiciste or the Moniteur—and perhaps somewhat in this way—"On the 23d of July last, a most splendid rebellion displayed her standard in the metropolis of Ireland, in a part of the city which in their language is called the *Poddle*. The band of heroes that came forth at the call of patriotism, capable of bearing arms, at the lowest calculation must have amounted to little less than *two hundred* persons. The rebellion advanced with most intrepid step till she came to the site of the old four courts, and tholsel. There she espied a decayed pillory, on which she mounted, in order to reconnoitre, but she found to her great mortification that the rebels had staid behind. She therefore judged it right to make her escape, which she effected in a masterly manner down *Dirty lane*. The rebels at the same time retiring in some disorder from the Poddle, being hard pressed by the poles and lanterns of the watchmen, and being additionally galled by Mr. Justice Drury, who came to a most unerring aim upon their rere, on which he played without any intermission, with a spy-glass, from his dining-room window—*Raro antecedentem celestum deserit Pœnapede claudo.* It is clearly ascertained that she did not appear in her own clothes, for she threw away her regimental jacket before she fled, which has been picked up, and is now to be seen at Mr. Carleton's, at six pence a head for grown persons, and three pence for a nurse and child. It was thought at first to be the work of an Irish artist, who might have taken measure in the absence of the wearer, but by a bill and receipt found in one of the pockets, it appears to have been made by the actual body tailor of her august highness the consort of the first consul. At present it is but poorly ornamented; but it is said that the Irish volunteers have entered into a subscription to *trim* it, if it shall be ever worn again."—Happy, most happy, it is for these islands, said Mr. Curran, that those rumours which are so maliciously invented and circulated to destroy our confidence in each other, to invite attack and dispirit resistance, turn out on inquiry to be so ludicrous and contemptible, that we cannot speak of them without laughter, or without wonder that they did not rather form the materials of a farce in a puppet show, than of a grave prosecution in a court of justice.

Mr. Curran said, there was still another topic material to remind the jury of: this was the first trial for treason that occurred since the union of these islands. He said no effectual union could be achieved by the mere letter of statute; don't imagine (said he) that bigotry could blend with liberality, or barbarism with civilization. If you wish to be really united with Great Britain, teach her to respect you, and do so by showing her that you are fit objects of wholesome laws; by showing that you are capable of rising to a proud equality with her in the exercise of social duties and civil virtues, as many parts of the globe have proved you to be in her fleets and her armies;—show her that you can try this cause as she would try it; that you have too much sense and humanity to be borne away in your verdict by despicable panic or brutal fury;—show her that in prosecutions by the state, you can even go a step beyond her, and that you can discover and act upon those eternal principles of justice, which it has been found necessary in that country to enforce by the coercion of law: you cannot, said he, but feel that I allude to their statute that requires two witnesses in treason. Our statute does not contain that provision; but if it was wise to enact it there as a law, it cannot be other than wise to adopt it here as a principle: unless you think it discreet to hold it out as your opinion, that the life of a man is not as valuable here, and ought not to be as secure, as in the other part of the empire; unless you wish to prove your capability of equal rights and equal liberty with Britain, by consigning to the scaffold your miserable fellow subject, who, if tried in England on the same charge and the same evidence, would by law be entitled to a verdict of acquittal. I trust you will not so blemish yourselves; I trust you will not be satisfied even with a cold imitation of her justice; but that on this occasion you will give her an example of magnanimity by rising superior to the passion or the panic of the moment. If in any ordinary case, in any ordinary time, you have any reasonable doubt of guilt, you are bound by every principle of law and justice to acquit. But I would advise you, at a time like this, rather to be lavish than parsimonious in the application of that principle—even though you had the strongest suspicion of his culpability I would advise you to acquit—you would show your confidence in your own strength, that you felt your situation too high to be affected in the smallest degree by the fate of so insig-

nificant an individual; turn to the miserable prisoner himself—tainted and blemished, as he possibly may be—even him you may retrieve to his country and his duty by a salutary effort of seasonable magnanimity. You will inspire him with reverence for that institution, which knows when to spare, as well as when to inflict—and which, instead of sacrificing him to a strong suspicion of his criminality, is determined, not by the belief, but by the possibility of his innocence, and dismisses him with indignation and contemptuous mercy.

MR. KIRWAN WAS FOUND GUILTY.

SPEECH OF MR. CURRAN,

IN BEHALF OF

THE REV. CHARLES MASSY,

AGAINST THE MARQUIS OF HEADFORD, FOR CRIMINAL CONVERSATION WITH PLAINTIFF'S WIFE.

AT ENNIS ASSIZES, CO. CLARE, ON THE 27TH OF JULY, 1804.

Damages laid at 40,000*l.*—*Verdict,* 10,000*l.*

MR. CURRAN.—Never so clearly as in the present instance have I observed that safeguard of justice, which providence hath placed in the nature of man. Such is the imperious dominion with which truth and reason wave their sceptre over the human intellect, that no solicitations however artful, no talent however commanding, can reduce it from its allegiance. In proportion to the humility of our submission to its rule do we rise into some faint emulation of that ineffable and presiding divinity, whose characteristic attribute it is—to be coerced and bound by the inexorable laws of his own nature, so as to be *all-wise* and *all-just* from necessity, rather than election. You have seen it in the learned advocate who has preceded me most peculiarly and strikingly illustrated—you have seen *even* his great talents, perhaps the first in any country, languishing under a cause too weak to *carry* him, and too heavy to be *carried* by him. He was forced to dismiss his natural candour and sincerity, and having no merits in his case, to substitute the dignity of his own manner, the resources of his own ingenuity, over the overwhelming difficulties with which he was surrounded. Wretched client! unhappy advocate! what a combination do you form! But such is the condition of guilt—its commission mean and tremulous—its defence artificial and insincere—its prosecution candid and simple—

its condemnation dignified and austere. Such has been the defendant's guilt—such his defence—such shall be my address—and such, I trust, your verdict. The learned counsel has told you, that this unfortunate woman is not to be estimated at forty thousand pounds—fatal and unquestionable is the truth of this assertion. Alas! gentlemen, she is no longer worth any thing—faded, fallen, degraded, and disgraced, she is worth less than nothing! But it is for the honour, the hope, the expectation, the tenderness, and the comforts that have been blasted by the defendant, and have fled for ever, that you are to remunerate the plaintiff, by the punishment of the defendant. It is not her present value which you are to weigh—but it is her value at that time, when she sat basking in a husband's love, with the blessing of heaven on her head, and its purity in her heart: when she sat amongst her family, and administered the morality of the parental board:—estimate that past value—compare it with its present deplorable diminution—and it may lead you to form some judgment of the severity of the injury, and the extent of the compensation.

The learned counsel has told you, you ought to be cautious, because your verdict cannot be set aside for excess. The assertion is just, but has he treated you fairly by its application? His cause would not allow him to be fair—for, why is the rule adopted in this single action? Because, this being peculiarly an injury to the most susceptible of all human feelings—it leaves the injury of the husband to be ascertained by the sensibility of the jury, and does not presume to measure the justice of their determination by the cold and chilly exercise of his own discretion. In any other action it is easy to calculate. If a tradesman's arm is cut off, you can measure the loss which he has sustained—but the wound of feeling, and the agony of the heart, cannot be judged by any standard with which I am acquainted. And you are unfairly dealt with, when you are called on to appreciate the present suffering of the husband by the present guilt, delinquency, and degradation of his wife. As well might you, if called on to give compensation to a man for the murder of his dearest friend—find the measure of his injury, by weighing the ashes of the dead. But it is not, gentlemen of the jury, by weighing the ashes of the dead, that you would estimate the loss of the survivor.

The learned counsel has referred you to other cases, and other countries, for instances of moderate verdicts. I can refer you to some authentic instances of just ones. In the next country, 15,000*l.* against a subaltern officer. In Travers and M'Carthy, 5000*l.* against a servant. In Tighe against Jones, 10,000*l.* against a man not worth a shilling. What then ought to be the rule, where rank, and power, and wealth, and station, have combined to render the example of his crime more dangerous—to make his guilt more odious—to make the injury to the plaintiff more grievous, because more conspicuous? I affect no levelling familiarity when I speak of persons in the higher ranks of society—distinctions of orders are necessary, and I always feel disposed to treat them with respect—but when it is my duty to speak of the crimes by which they are degraded, I am not so fastidious as to shrink from their contact, when to touch them is essential to their dissection. In this action, the condition, the conduct, and circumstances of the party, are justly and peculiarly the objects of your consideration. Who are the parties? The plaintiff, young, amiable, of family and education. Of the generous disinterestedness of his heart you can form an opinion even from the evidence of the defendant, that he declined an alliance, which would have added to his fortune and consideration, and which he rejected for an unportioned union with his present wife. She too, at that time young, beautiful and accomplished; and feeling her affection for her husband increase, in proportion as she remembered the ardour of his love, and the sincerity of his sacrifice. Look now to the defendant!—I blush to name him!—I blush to name a rank which he has tarnished—and a patent that he has worse than cancelled. High in the army—high in the state—the hereditary counsellor of the king—of wealth incalculable—and to this last I advert with an indignant and contemptuous satisfaction, because, as the only instrument of his guilt and shame, it will be the means of his punishment, and the source of compensation for his guilt.

But let me call your attention distinctly to the questions you have to consider. The first is the fact of guilt. Is this noble lord guilty? His counsel knew too well how they would have mortified his vanity, had they given the smallest reason to doubt the splendour of his achievement. Against any such humiliating suspicion he had taken the most studious precaution by the pub-

licity of the exploit. And here, in this court, and before you and in the face of the country, has he the unparalleled effrontery of disdaining to resort even to a *confession of innocence*.—His guilt established, your next question is, the damages you should give. You have been told, that the amount of the damages should depend on circumstances. You will consider these circumstances, whether of aggravation or mitigation. His learned counsel contend, that the plaintiff has been the author of his own suffering, and ought to receive no compensation for the ill consequences of his own conduct. In what part of the evidence do you find any foundation for that assertion? He indulged her, it seems, in dress—generous and attached, he probably indulged her in that point beyond his means; and the defendant now imprudently calls on you to find an excuse for the adulterer in the fondness and liberality of her husband. But you have been told that the husband connived. Odious and imprudent aggravation of injury —to add calumny to insult, and outrage to dishonour. From whom, but a man hackneyed in the paths of shame and vice—from whom, but from a man having no compunctions in his own breast to restrain him, could you expect such brutal disregard for the feelings of others—from whom, but the cold-blooded veteran seducer—from what, but from the exhausted mind—the habitual community with shame—from what, but the habitual contempt of virtue and of man, could you have expected the arrogance, the barbarity, and folly of so foul—because so false an imputation? He should have reflected—and have blushed, before he suffered so vile a topic of defence to have passed his lips. But, ere you condemn, let him have the benefit of the excuse, if the excuse be true. You must have observed how his counsel fluttered and vibrated, between what they called connivance and injudicious confidence; and how, in affecting to distinguish they have confounded them both together.—If the plaintiff has connived, I freely say to you, do not reward the wretch who has prostituted his wife, and surrendered his own honour—do not compensate the pander of his own shame, and the willing instrument of his own infamy. But as there is no sum so low to which such a defence, if true, ought not to reduce your verdict, so neither is any so high to which such a charge ought not to inflame it, if such a charge be false. Where is the single fact in *this* case on which the remotest suspicion of connivance can be

hung?—Odiously has the defendant endeavoured to make the softest and most amiable feelings of the heart the pretext of his slanderous imputations. An ancient and respectable prelate, the husband of his wife's sister, chained down to the bed of sickness, perhaps to the bed of death. In that distressing situation my client suffered that wife to be the bearer of consolation to the bosom of her sister—he had not the heart to refuse her—and the softness of his nature is now charged on him as a crime. He is now insolently told, that he connived at his dishonour, and that he ought to have foreseen, that the mansion of sickness and of sorrow would have been made the scene of assignation and of guilt. On this charge of connivance I will not farther weary you or exhaust myself—I will add nothing more, than that it is as false as it is impudent—that in the evidence it has not a colour of support; and that by your verdict you should mark it with reprobation. The other subject, namely, that he was indiscreet in his confidence, does, I think, call for some discussion—for I trust you see that I affect not any address to your passions, by which you may be led away from the subject—I presume merely to separate the parts of this affecting case, and to lay them item by item before you, with the coldness of detail, and not with any colouring or display of fiction or of fancy.—Honourable to himself was his unsuspecting confidence, but fatal must we admit it to have been, when we look to the abuse committed upon it: but where was the guilt of this indiscretion? He did admit this noble lord to pass his threshold as his guest. Now the charge which this noble lord builds on this indiscretion is—"thou fool—thou hadst confidence in my honour—and that was a guilty indiscretion.—Thou simpleton, thou thoughtest that an admitted and a cherished guest, would have respected the laws of honour and hospitality, and thy indiscretion was guilt.—Thou thoughtest that he would have shrunk from the meanness and barbarity of requiting kindness with treachery,—and thy indiscretion was guilt."

Gentlemen, what horrid alternative in the treatment of wives would such reasoning recommend? Are they to be immured by worse than eastern barbarity? Are their principles to be depraved, their passions sublimated, every finer motive of action extinguished by the inevitable consequences of thus treating them like slaves? Or is a liberal and generous confidence in them to

be the passport of the adulterer, and the justification of his crimes?

Honourably, but fatally for his own repose, he was neither jealous, suspicious, nor cruel.—He treated the defendant with the confidence of a friend—and his wife with the tenderness of a husband.—He did leave to the noble marquis the physical possibility of committing against him the greatest crime which can be perpetrated against a being of an amiable heart and refined education.—In the middle of the day, at the moment of divine worship, when the miserable husband was on his knees, directing the prayers and thanksgiving of his congregation to their God—that moment did the remorseless adulterer choose to carry off the deluded victim from her husband—from her child—from her character—from her happiness—as if, not content to leave his crime confined to its miserable aggravations, unless he gave it a cast and colour of factitious sacrilege and impiety. Oh! how happy had it been when he arrived at the bank of the river with the ill-fated fugitive, ere yet he had committed her to that boat, of which, like the fabled barque of Styx, the exile was eternal, how happy at that moment, so teeming with misery and with shame, if you, my lord, had met him, and could have accosted him in the character of that good genius which had abandoned him. How impressively might you have pleaded the cause of the father, of the child, of the mother, and even of the worthless defendant himself. You would have said, "is this the requital that you are about to make for respect and kindness, and confidence in your honour? Can you deliberately expose this young man, in the bloom of life, with all his hopes before him? Can you expose him, a wretched outcast from society, to the scorn of a merciless world? Can you set him adrift upon the tempestuous ocean of his own passions, at this early season when they are most headstrong; and can you cut him out from the moorings of those domestic obligations by whose cable he might ride at safety from their turbulence? Think of, if you can conceive it, what a powerful influence arises from the sense of home, from the sacred religion of the hearth in quelling the passions, in reclaiming the wanderings, in correcting the discords of the human heart; do not cruelly take from him the protection of these attachments. But if you have no pity for the father, have mercy at least upon his innocent and helpless child; do not condemn

him to an education scandalous or neglected,—do not strike him into that most dreadful of all human conditions, the orphanage that springs not from the grave, that falls not from the hand of Providence, or the stroke of death; but comes before its time, anticipated and inflicted by the remorseless cruelty of parental guilt. For the poor victim herself—not yet immolated—while yet balancing upon the pivot of her destiny, your heart could not be cold, nor your tongue be wordless. You would have said to him, pause, my lord, while there is yet a moment for reflection. What are your motives, what your views, what your prospects from what you are about to do? You are a married man, the husband of the most amiable and respectable of women; you cannot look to the chance of marrying this wretched fugitive; between you and such an event there are two sepulchres to pass. What are your inducements? Is it love, think you? No,—do not give that name to any attraction you can find in the faded refuse of a violated bed. Love is a noble and generous passion; it can be founded only on a pure and ardent friendship, on an exalted respect, on an implicit confidence in its object. Search your heart, examine your judgment, do you find the semblance of any one of these sentiments to bind you to her? what could degrade a mind to which nature or education had given port, or stature, or character, into a friendship for her? Could you repose upon her faith? Look in her face, my lord; she is at this moment giving you the violation of the most sacred of human obligations as the pledge of her fidelity.—She is giving you the most irrefragable proof that, as she is deserting her husband for you, so she would without a scruple abandon you for another. Do you anticipate any pleasure you might feel in the possible event of your becoming the parents of a common child? She is at this moment proving to you that she is as dead to the sense of parental as of conjugal obligation; and that she would abandon your offspring to-morrow, with the same facility with which she now deserts her own. Look then at her conduct, as it is, as the world must behold it, blackened by every aggravation that can make it either odious or contemptible, and unrelieved by a single circumstance of mitigation, that could palliate its guilt, or retrieve it from abhorrence.

Mean, however, and degraded as this woman must be, she will still (if you take her with you) have strong and heavy claims

upon you.—The force of such claims does certainly depend upon circumstances: before, therefore, you expose her fate to the dreadful risque of your caprice or ingratitude, in mercy to her weigh well the confidence she can place in your future justice and honour: at that future time, much nearer than you think, by what topics can her cause be pleaded to a sated appetite, to a heart that repels her, to a just judgment in which she never could have been valued or respected? Here is not the case of an unmarried woman, with whom a pure and generous friendship may insensibly have ripened into a more serious attachment, until at last her heart became too deeply pledged to be re-assumed: if so circumstanced, without any husband to betray, or child to desert, or motive to restrain, except what related solely to herself, her anxiety for your happiness made her overlook every other consideration, and commit her history to your honour; in such a case, (the strongest and the highest that man's imagination can suppose;) in which you at least could see nothing but the most noble and disinterested sacrifice; in which you could find nothing but what claimed from you the most kind and exalted sentiment of tenderness, and devotion, and respect; and in which the most fastidious rigour would find so much more subject for sympathy than blame:—let me ask you, could you, even in that case, answer for your own justice and gratitude? I do not allude to the long and pitiful catalogue of paltry adventures, in which it seems your time has been employed.—The coarse and vulgar succession of casual connexions, joyless, loveless, and unendeared: but do you not find upon your memory some trace of an engagement of the character I have sketched?—Has not your sense of what you would owe in such a case, and to such a woman, been at least once put to the test of experiment? Has it not once at least happened that such a woman, with all the resolution of strong faith, flung her youth, her hope, her beauty, her talent, upon your bosom, weighed you against the world, which she found but a feather in the scale, and took you as an equivalent? How did you then acquit yourself? Did you prove yourself worthy of the sacred trust reposed in you? Did your spirit so associate with hers, as to leave her no room to regret the splendid and disinterested sacrifice she had made? Did her soul find a pillow in the tenderness of yours, and support in its firmness? Did you preserve her high in your own consciousness,

proud in your admiration and friendship, and happy in your affection? You might have so acted, and the man that was worthy of her would have perished rather than not so act, as to make her delighted with having confided so sacred a trust to his honour.—Did you so act? Did she feel that, however precious to your heart, she was still more exalted and honoured in your reverence and respect? Or did she find you coarse and paltry, fluttering and unpurposed, unfeeling, and ungrateful? You found her a fair and blushing flower, its beauty and its fragrance bathed in the dews of heaven. Did you so tenderly transplant it, as to preserve that beauty and fragrance unimpaired? Or did you so rudely cut it, as to interrupt its nutriment, to waste its sweetness, to blast its beauty, to bow down its faded and sickly head? And did you at last fling it like "a loathsome weed away?" If then to such a woman, so clothed with every title that could ennoble, and exalt, and endear her to the heart of man, you would be cruelly and capriciously deficient, how can a wretched fugitive like this, in every point her contrast, hope to find you just? Send her then away. Send her back to her home, to her child, to her husband, to herself." Alas, there was none to hold such language to this noble defendant; he did not hold it to himself. But he paraded his despicable prize in his own carriage, with his own retinue, his own servants—this veteran Paris hawked his enamoured Helen from this western quarter of the island to a sea-port in the eastern, crowned with the acclamations of a senseless and grinning rabble, glorying and delighted, no doubt, in the leering and scoffing admiration of grooms, and ostlers, and waiters, as he passed.

In this odious contempt of every personal feeling, of public opinion, of common humanity, did he parade this woman to the sea-port, whence he transported his precious cargo to a country, where her example may be less mischievous than in her own; where I agree with my learned colleague in heartily wishing he may remain with her for ever. We are too poor, too simple, too unadvanced a country, for the example of such achievements. When the relaxation of morals is the natural growth and consequence of the great progress of arts and wealth, it is accompanied by a refinement, that makes it less gross and shocking: but for such palliations we are at least a century too young. I advise you, therefore, most earnestly to rebuke this budding mis-

chief, by letting the wholesome vigour and chastisement of a liberal verdict speak what you think of its enormity. In every point of view in which I can look at the subject, I see you are called upon to give a verdict of bold, and just, and indignant, and exemplary compensation. The injury of the plaintiff demands it from your justice; the delinquency of the defendant provokes it by its enormity. The rank on which he has relied for impunity calls upon you to tell him, that crime does not ascend to the rank of the perpetrator, but the perpetrator sinks from his rank, and descends to the level of his delinquency. The style and mode of his defence is a gross aggravation of his conduct, and a gross insult upon you. Look upon the different subjects of his defence as you ought, and let him profit by them as he deserves; vainly presumptuous upon his rank, he wishes to overawe you by the despicable consideration. He next resorts to a cruel aspersion upon the character of the unhappy plaintiff, whom he had already wounded beyond the possibility of reparation; he has ventured to charge him with connivance: as to that, I will only say, gentlemen of the jury, do not give this vain boaster a pretext for saying, that if her husband connived in the offence, the jury also connived in the reparation. But he has pressed another curious topic upon you. After the plaintiff had cause to suspect his designs, and the likelihood of their being fatally successful, he did not then act precisely as he ought. Gracious God, what an argument for him to dare to advance! It is saying this to him: "I abused your confidence, your hospitality; I laid a base plan for the seduction of the wife of your bosom; I succeeded at last, so as to throw in upon you that most dreadful of all suspicions to a man fondly attached, proud of his wife's honour, and tremblingly alive to his own; that you were possibly a dupe to the confidence in the wife, as much as in the guest: in this so pitiable distress, which I myself had studiously and deliberately contrived for you, between hope and fear, and doubt and love, and jealousy and shame; one moment shrinking from the cruelty of your suspicion: the next, fired with indignation at the facility and credulity of your acquittal; in this labyrinth of doubt, in this phrensy of suffering, you were not collected and composed; you did not act as you might have done, if I had not worked you to madness; and upon that very madness which I have inflicted upon you, upon *the* very completion of my guilt, and of your misery, I will build

my defence. You did not act critically right, and therefore are unworthy of compensation." Gentlemen, can you be dead to the remorseless atrocity of such a defence! And shall not your honest verdict mark it as it deserves? But let me go a little further; let me ask you, for I confess I have no distinct idea, of what should be the conduct of an husband so placed, and who is to act critically right? Shall he lock her up, or turn her out, or enlarge or abridge her liberty of acting as she pleases? Oh, dreadful Areopagus of the tea-table! how formidable thy inquests, how tremendous thy condemnations! In the first case he is brutal and barbarous, an odious eastern despot. In the next; what! turn an innocent woman out of his house, without evidence or proof, but merely because he is vile and mean enough to suspect the wife of his bosom, and the mother of his child! Between these extremes, what intermediate degree is he to adopt? I put this question to you at this moment,—uninfluenced by any passion as you now are, but cool and collected, and uninterested as you must be, do you see clearly this proper and exact line, which the plaintiff should have pursued? I must question if you do? But if you did or could, must you not say, that he was the last man from whom you should expect the coolness to discover, or the steadiness to pursue it? And yet this is the outrageous and insolent defence that is put forward to you. My miserable client, when his brain was on fire, and every fiend of hell was let loose upon his heart, he should then, it seems, have placed himself before his mirror, he should have taught the stream of agony to flow decorously down his forehead; he should have composed his features to harmony; he should have writhed with grace, and groaned in melody. But look farther to this noble defendant, and his honourable defence; the wretched woman is to be successively the victim of seduction, and of slander. She it seems received marked attentions—here, I confess, I felt myself not a little at a loss. The witnesses could not describe what these marked attentions were, or are. They consisted, not, if you believe the witnesses that swore to them, in any personal approach, or contact whatsoever; nor in any unwarrantable topics of discourse. Of what materials then were they composed? Why, it seems, a gentleman had the insolence at table to propose to her a glass of wine, and she, oh most abandoned lady! instead of flying like an angry parrot at his head, and besmirching and be

scratching him for his insolence, tamely and basely replies, 'port, sir, if you please.' But, gentlemen, why do I advert to this folly, this nonsense? Not surely to vindicate from censure the most innocent, and the most delightful intercourse of social kindness, or harmless and cheerful courtesy—"where virtue is, these are most virtuous." But I am soliciting your attention, and your feeling, to the mean and odious aggravation; to the unblushing and remorseless barbarity, of falsely aspersing the wretched woman he had undone. One good he has done; he has disclosed to you the point in which he can feel; for how imperious must that avarice be, which could resort to so vile an expedient of frugality? Yes, I will say, that with the common feelings of a man, he would have rather suffered his thirty thousand a year to go as a compensation to the plaintiff, than saved a shilling of it by so vile an expedient of economy. He would rather have starved with her in a gaol, he would rather have sunk with her into the ocean, than have so vilified her, than have so degraded himself.—But it seems, gentlemen, and indeed you have been told, that long as the course of his gallantries has been, and he has grown grey in the service, it is the first time he has been called upon for damages. To how many might it have been fortunate, if he had not that impunity to boast? Your verdict will, I trust, put an end to that encouragement to guilt, that is built upon impunity: the devil it seems has saved the noble marquis harmless in the past; but your verdict will tell him the term of that indemnity is expired, that his old friend and banker has no more effects in his hands, and that if he draws any more upon him, he must pay his own bills himself. You will do much good by doing so; you may not enlighten his conscience, nor touch his heart, but his frugality will understand the hint. It will adopt the prudence of age, and deter him from pursuits, in which, though he may be insensible of shame, he will not be regardless of expense. You will do more, you will not only punish him in his tender point, but you will weaken him in his strong one, his money. We have heard much of this noble lord's wealth, and much of his exploits, but not much of his accomplishments or his wit. I know not that his verses have soared even to the poet's corner. I have heard it said, that an ass laden with gold could find his way through the gate of the strongest city. But, gentlemen, lighten the load upon his back, and you will completely

curtail the mischievous faculty of a grave animal whose momentum lies, not in his agility, but his weight; not in the quantity of motion, but the quantity of his matter. There is another ground, on which you are called upon to give most liberal damages, and that has been laid by the unfeeling vanity of the defendant. This business has been marked by the most elaborate publicity. It is very clear that he has been allured by the glory of the chace, and not the value of the game. The poor object of his pursuit could be of no value to him, or he could not have so wantonly, and cruelly, and unnecessarily abused her. He might easily have kept this unhappy intercourse an unsuspected secret. Even if he wished for her elopement, he might easily have so contrived it, that the place of her retreat would be profoundly undiscoverable; yet, though even the expense, a point so tender to his delicate sensibility, of concealing, could not be a one fortieth of the cost of publishing her, his vanity decided him in favour of glory and publicity. By that election he has in fact put forward the Irish nation, and its character, so often and so variously calumniated, upon its trial before the tribunal of the empire; and your verdict will this day decide, whether an Irish jury can feel with justice, and spirit, upon a subject that involves conjugal affection and comfort, domestic honour and repose—the certainty of issue—the weight of public opinion—the gilded and presumptuous criminality of overweening rank and station. I doubt not, but he is at this moment reclined on a silken sofa, anticipating that submissive and modest verdict, by which you will lean gently on his errors; and expecting from your patriotism, no doubt, that you will think again, and again, before you condemn any great portion of the immense revenue of a great absentee, to be detained in the nation that produced it, instead of being transmitted, as it ought, to be expended in the splendour of another country. He is now probably waiting for the arrival of the report of this day, which I understand, a famous note-taker has been sent hither to collect. (Let not the gentleman be disturbed.) Gentlemen, let me assure you, it is more, much more the trial of you, than of the noble marquis, of which this imported recorder is at this moment collecting the materials. His noble employer is now expecting a report to the following effect: "Such a day came on to be tried at Ennis, by a special jury, the cause of Charles Massy against the most noble, the marquis of Headfort. It

appeared, that the plaintiff's wife was young, beautiful, and captivating. The plaintiff himself, a person fond of this beautiful creature to distraction, and both doating on their child; but the noble marquis approached her, the plume of glory nodded on his head. Not the goddess Minerva, but the goddess Venus had lighted up his casque, "the fire that never tires—such as many a lady gay had been dazzled with before." At the first advance she trembled, at the second she struck to the redoubted son of Mars, and pupil of Venus. The jury saw it was not his fault; (it was an Irish jury;) they felt compassion for the tenderness of the mother's heart, and for the warmth of the lover's passion. The jury saw on the one side, a young, entertaining gallant, on the other, a beauteous creature, of charms irresistible. They recollected, that Jupiter had been always successful in his amours, although Vulcan had not always escaped some awkward accidents. The jury was composed of fathers, brothers, husbands —but they had not the vulgar jealousy, that views little things of that sort with rigour, and wishing to assimilate their country in every respect to England now that they are united to it, they, like English gentlemen, returned to their box with a verdict of six pence damages and six pence costs." Let this be sent to England. I promise you, your odious secret will not be kept better than that of the wretched Mrs. Massy. There is not a bawdy Chronicle in London, in which the epitaph which you would have written on yourselves will not be published, and our enemies will delight in the spectacle of our precocious depravity, in seeing that we can be rotten before we are ripe. I do not suppose it; I do not, cannot, will not believe it; I will not harrow up myself with the anticipated apprehension.

There is another consideration, gentlemen, which I think most imperiously demands even a vindictive award of exemplary damages—and that is the breach of hospitality. To us peculiarly does it belong to avenge the violation of its altar. The hospitality of other countries is a matter of necessity or convention, in savage nations of the first, in polished, of the latter; *but the hospitality of an Irishman* is not the running account of posted and and ledgered courtesies, as in other countries;—it springs like all his qualities, his faults, his virtues—directly from his heart. The heart of an Irishman is by nature bold, and he confides; it is *tender*, and he loves; it is generous, and he gives; it is social,

and he is hospitable. This sacrilegious intruder has profaned the religion of that sacred altar so elevated in our worship, so precious to our devotion; and it is our privilege to avenge the crime. You must either pull down the altar, and abolish the worship, or you must preserve its sanctity undebased. There is no alternative between the universal exclusion of all mankind from your threshold, and the most rigorous punishment of him who is admitted and betrays. This defendant has been so trusted, has so betrayed, and you ought to make him a most signal example.

Gentlemen, I am the more disposed to feel the strongest indignation and abhorrence at this odious conduct of the defendant, when I consider the deplorable condition to which he has reduced the plaintiff, and perhaps the still more deplorable one that he has in prospect before him. What a progress has he to travel through, before he can attain the peace and tranquillity which he has lost? How like the wounds of the body are those of the mind! how burning the fever! how painful the suppuration! how slow, how hesitating, how relapsing the process to convalescence? Through what a variety of suffering, what new scenes and changes, must my unhappy client pass, ere he can re-attain, should he ever re-attain, that health of soul of which he has been despoiled by the cold and deliberate machinations of this practised and gilded seducer? If, instead of drawing upon his incalculable wealth for a scanty retribution, you were to stop the progress of his despicable achievements by reducing him to actual poverty, you could not even so punish him beyond the scope of his offence, nor reprise the plaintiff beyond the measure of his suffering. Let me remind you, that in this action, the law not only empowers you, but that its policy commands you, to consider the public example, as well as the individual injury, when you adjust the amount of your verdict. I confess I am most anxious that you should acquit yourselves worthily upon this important occasion. I am addressing you as fathers, husbands, brothers. I am anxious that a feeling of those high relations should enter into, and give dignity to your verdict. But I confess, I feel a tenfold solicitude when I remember that I am addressing you as my countrymen, as Irishmen, whose characters as jurors, as gentlemen, must find either honour or degradation in the result of your decision. Small as must be the distributive

share of that national estimation, that can belong to so unimportant an individual as myself, yet I do own I am tremblingly solicitous for his fate. Perhaps it appears of more value to me, because it is embarked on the same bottom with yours; perhaps the community of peril, of common safety, or common wreck, gives a consequence to my share of the risque, which I could not be vain enough to give it, if it were not raised to it by that mutuality. But why stoop to think at all of myself, when I know that you, gentlemen of the jury, when I know that our country itself are my clients on this day, and must abide the alternative of honour, or of infamy, as you shall decide. But I will not despond, I will not dare to despond. I have every trust, and hope, and confidence in you. And to that hope I will add my most fervent prayer to the God of all truth and justice, that you may so decide, as to preserve to yourselves while you live, the most delightful of all recollections, that of acting justly, and to transmit to your children the most precious of all inheritances, the memory of your virtue.

SPEECH OF MR. CURRAN,

IN THE CAUSE OF THE KING AGAINST THE HON. MR. JUSTICE JOHNSON,

IN THE COURT OF EXCHEQUER, DUBLIN, FEBRUARY 4TH, 1805.

AN act of Parliament was passed in England in the year 1804, which received the royal assent on the 20th July that year, which was entitled, to be an act to render more easy the apprehending and bringing to trial, offenders escaping from one part of the united kingdom to the other, and also from one country to another.

The fourth section of which is as follows, on the construction of which section the argument in the court of exchequer arose:

And, for remedy of the like inconveniency by the escape into *Ireland* of persons guilty of crimes in *England* or *Scotland* respectively, be it further enacted, that, from and after the 1st day of *August*, 1804, if any person or persons, against whom a warrant shall be issued by any of the judges of his majesty's court of king's bench, or of the courts of great sessions in *Wales*, or any justice of oyer and terminer or goal delivery, or any justice or justices of the peace of any county, stewartry, riding, division, city, liberty, town, or place, within *England* or *Scotland* respectively, or other persons having authority to issue the same within *England* or *Scotland* respectively, for any crime or offence against the laws of *England* or *Scotland* respectively, shall escape, go into, reside, or be in any place of that part of the united kingdom called *Ireland*, it shall and may be lawful for any justice of the peace of the county or place in *Ireland*, whither or where such person or persons shall escape, go into, or reside, or be, to indorse his name on such warrant, which warrant so indorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all sheriff's officers constables, and other peace officers, of the county or place in *Ireland* where such warrant shall be so indorsed, to execute the said warrant in the county or place in *Ireland* where it is so indorsed, by apprehending the person or persons against whom such warrant may be granted, and to convey him, her, or them by the most direct way, into *England* or *Scotland* respectively, and before one of the justices of peace of the county or stewartry, in *England* or *Scotland* respectively, living near the place and in the county where he, she, or they shall arrive and land, which justice of peace is hereby authorized and required to proceed with regard to such person or persons as if such person or persons had been legally apprehended in the said county or stewartry of *England* or *Scotland* respectively.

MY LORDS,—It has fallen to my lot, either fortunately, or unfortunately, as the event may be, to rise as counsel for my client

on this most important and momentous occasion. I appear before you, my lords, in consequence of a writ issued by his *majesty*, commanding that cause be shown to this his *court*, why his *subject* has been deprived of his *liberty*; and upon the cause shown in obedience to this writ, it is my duty to address you on the most awful question, if awfulness is to be judged by consequences and events, on which you have been *ever* called upon to decide. Sorry am I that the task has not been confided to more adequate powers; but feeble as they are, they will at least not shrink from it. I move you therefore that Mr. Justice Johnston be released from illegal imprisonment.

I cannot but observe the sort of scenic preparation with which this sad drama is sought to be brought forward. In part I approve it; in part it excites my *disgust* and *indignation*. I am glad to find that the attorney and solicitor general, the natural and official prosecutors for the state, do not appear; and I infer from their absence, that his excellency the lord lieutenant disclaims any personal concern in this execrable transaction. I think it does him much honour; it is a conduct that equally agrees with the dignity of his character and the feelings of his heart. To his private virtues, whenever he is left to their influence, I willingly concur in giving the most unqualified tribute of respect. And I do firmly believe, it is with no small regret that he suffers his name to be even formally made use of, in avowing for a return of one of the judges of the land, with as much indifference and *nonchalance* as if he were a beast of the plough. I observe too, the dead silence into which the public is frowned by authority for the sad occasion. No man dares to mutter; no newspaper dares to whisper that such a question is afloat. It seems an inquiry among the tombs, or rather in the shades beyond them.

Ibant sola sub nocte per umbram.

I am glad it is so—I am glad of this factitious dumbness; for if murmurs dared to become audible, my voice would be too feeble to drown them; but when all is hushed—when nature sleeps—

Cum quies mortalibus ægris,

the weakest voice is heard—the shepherd's whistle shoots across the listening darkness of the interminable heath, and gives notice that the wolf is upon his walk; and the same gloom and stillness

that tempt the monster to come abroad, facilitate the communication of the warning to beware. Yes, through that silence the voice shall be heard; yes, through that silence the shepherd shall be put upon his guard; yes, through that silence shall the felon savage be chased into the toil. Yes, my lords, I feel myself cheered and impressed by the composed and dignified attention with which I see you are disposed to hear me on the most important question that has ever been subjected to your consideration; the most important to the dearest rights of the human being; the most deeply interesting and animating that can beat in his heart, or burn upon his tongue—O! how recreating is it to feel that occasions may arise in which the soul of man may resume her pretensions; in which she hears the voice of nature whisper to her, *os homini sublime dedi cœlumque tueri;* in which even I can look *up* with calm security to the court, and down with the most profound contempt upon the reptile I mean to tread upon! I say, reptile; because, when the proudest man in society becomes so the dupe of his childish malice, as to wish to inflict on the object of his vengeance the poison of his sting, to do a reptile's work he must shrink into a reptile's dimension; and so shrunk, the only way to assail him is to tread upon him. But to the subject:—this writ of habeas corpus has had a return. That return states, that lord Ellenborough, chief justice of England, issued a warrant reciting the foundation of this dismal transaction: that *one* of the clerks of the crown-office had certified to him, that an indictment had been found at Westminster, charging the hon. Robert Johnson, late of Westminster, one of the justices of his majesty's court of common pleas in Ireland, with the publication of certain slanderous libels against the government of that country; against the person of his excellency lord Hardwicke, lord lieutenant of that country; against the person of lord Redesdale, the chancellor of Ireland; and against the person of Mr. Justice Osborne, one of the justices of the court of king's bench in Ireland. One of the clerks of the crown-office, it seems, certified all this to his lordship. How many of those there are, or who they are, or which of them so certified, we cannot presume to guess, because the learned and noble lord is silent as to those circumstances. We are only informed that one of them made that important communication to his lordship. It puts me in *mind of the information* given to one of Fielding's justices's

"did not," says his worship's wife, "the man with the valet make his *fidavy* that you was *avagram?*" I suppose it was some such petty bag officer who gave lord Ellenborough to understand that Mr. Justice Johnson was indicted. And being thus given to understand and be informed, he issued his warrant to a gentleman, no doubt of great respectability, a Mr. Williams, his tipstaff, to take the body of Mr. Justice Johnson and bring him before a magistrate, for the purpose of giving bail to appear within the first eight days of this term, so that there might be a trial within the sittings after; and if, by the blessing of God, he should be convicted, then to appear on the return of the *postea*, to be dealt with according to law.

Perhaps it may be a question for you to decide, whether that warrant, such as it may be, is not now absolutely spent; and, if not, how a man can contrive to be hereafter in England on a day that is past? And high as the opinion may be in England of Irish understanding, it will be something beyond even Irish exactness to bind him to appear in England, not a fortnight hence, but a fortnight ago.—I wish, my lords, we had the art of giving time this retrogade motion. If possessed of the secret, we might be disposed to improve it from fortnights into years.

There is something not incurious in the juxta-position of signatures. The warrant is signed by the chief justice of all England. In music, the ear is reconciled to strong transitions of key by a preparatory resolution of the intervening discords; but here, alas! there is nothing to break the fall: the august title of Ellenborough is followed by the unadorned name of brother Bell, the sponsor of his lordship's warrant. Let me not, however, be suffered to deem lightly of the compeer of the noble and learned lord. Mr. Justice Bell ought to be a lawyer; I remember him myself long a crier,* and I know his credit too with the state; he has had a *noli prosequi*. I see not therefore why it may not fairly be said "*fortunati ambo!*" It appears by his return, that Mr. Justice Bell indorses this bill of lading to another consignee, Mr. Medlicot, a most respectable gentleman; he describes himself upon the warrant, and he gives a delightful specimen of the administration of justice, and the calender of saints in office; he describes himself a justice and a peace officer—that is, a magis-

* This gentleman was formerly crier to the late baron Hamilton, when the baron went circuit as a judge.

trate and a catchpole:—so that he may receive informations as a justice; if he can write, he may draw them as a clerk; if not, he can execute the warrant as bailiff; and, if it be a capital offence, you may see the culprit, the justice, the clerk, the bailiff, and the hangman, together in the same cart; and, though he may not write, he may "ride and tie!" What a pity that their journey should not be further continued together! That, as they had been "lovely in their lives, so in their deaths they might not be divided!" I find, my lords, I have undesignedly raised a laugh; never did I less feel merriment.—Let not me be condemned—let not the laugh be mistaken.—Never was Mr. Hume more just than when he says, that "in many things the extremes are nearer to one another than the means."—Few are those events that are produced by vice and folly, that fire the heart with indignation, that do not also shake the sides with laughter. So when the two famous moralists of old beheld the sad spectacle of life, the one burst into laughter, the other melted into tears: they were each of them right, and equally right.

Si credas utrique
Res sunt humanæ flebile ludibrium.

But these laughs are the bitter ireful laughs of honest indignation, or they are the laughs of hectic melancholy and despair.

It is stated to you, my lords, that these two justices, if justices they are to be called, went to the house of the defendant. I am speaking to judges, but I disdain the paltry insult it would be to them, were I to appeal to any wretched sympathy of situation I feel I am above it. I know the bench is above it. But I know, too, that there are ranks, and degrees, and decorums to be observed; and, if I had a harsh communication to make to a venerable judge, and a similar one to his crier, I should certainly address them in a very different language indeed. A judge of the land, a man not young, of infirm health, has the sanctuary of his habitation broken open by these two persons, who set out with him for the coast, to drag him from his country, to hurry him to a strange land by the "most direct way!" till the king's writ stopped the malefactors, and left the subject of the king a waif dropped in the pursuit.

Is it for nothing, my lords, I say this? Is it without intention I state the facts in this way? It is with every intention. It is *the duty of the public* advocate not so to put forward the object

of public attention, as that the skeleton only shall appear, without flesh, or feature, or complexion. I mean every thing that ought to be meant in a court of justice. I mean not only that this execrable attempt shall be intelligible to the court as a matter of *law*, but shall be understood by the world as an act of *state*. If advocates had always the honesty and the courage, upon occasions like this, to despise all personal considerations, and to think of no consequence but what may result to the public from the faithful discharge of their sacred trust, these phrenetic projects of power, these atrocious aggressions on the liberty and happiness of men, would not be so often attempted: for, though a certain class of delinquents may be screened from punishment, they cannot be protected from hatred and derision. The great tribunal of reputation will pass its inexorable sentence upon their crimes, their follies, or their incompetency; they will sink themselves under the consciousness of their situation; they will feel the operation of an acid so neutralizing the malignity of their natures, as to make them at least harmless, if it cannot make them honest. Nor is there any thing of risk in the conduct I recommend. If the fire be hot, or the window cold, turn your back to either; turn your face. So, if you are obliged to arraign the acts of those in high station, approach them not in malice, nor favour, nor fear. Remember, that it is the condition of guilt to tremble, and of honesty to be bold; remember, that your false fear can only give them false courage; that while you nobly avow the cause of truth, you will find her shield an impenetrable protection; and that no attack can be either hazardous or inefficient, if it be just and resolute.—If Nathan had not fortified himself in the boldness and directness of his charge, he might have been hanged for the malice of his parable.

It is, my lords, in this temper of mind, befitting every advocate who is worthy of the name, deeply and modestly sensible of his duty, and proud of his privilege, equally exalted above the meanness of temporizing or of offending, most averse from the unnecessary infliction of pain upon any man or men whatsoever, that I now address you on a question, the most vitally connected with the liberty and well being of every man within the limits of the British empire; which, if decided one way, he may be a freeman; which, if decided the other, he must be a slave. It is not the Irish nation only that is involved in this question: every member

of the three realms is equally embarked; and would to God all England could listen to what passes here this day! they would regard us with more sympathy and respect, when the proudest Briton saw that his liberty was defended in what he would call a provincial court, and by a provincial advocate. The abstract and general question for your consideration is this:—my lord Ellenborough has signed with his own hand a warrant, which has been endorsed by Mr. Bell, an Irish justice, for seizing the person of Mr. Justice Johnson in Ireland, for conveying his person by the most direct way, in such manner as these bailiffs may choose across the sea, and afterwards to the city of Westminister, to take his trial for an alleged libel against the persons entrusted with the government of Ireland, and to take that trial in a country where the supposed offender did not live at the time of the supposed offence, nor since a period of at least eighteen months previous thereto, has ever resided; where the subject of his accusation is perfectly unknown; where the conduct of his prosecutors, which has been the subject of the supposed libel, is equally unknown; where he has not the power of compelling the attendance of a single witness for his defence. Under that warrant he has been dragged from his family; under that warrant he was on his way to the water's edge: his transportation has been interrupted by the writ before you, and upon the return of that writ arises the question upon which you are to decide, the legality or illegality of so transporting him for the purpose of trial. I am well aware, my lords, of the limits of the present discussion; if the law was clear in favour of the prosecutors, a most momentous question might arise—how far they may be delinquents in daring to avail themselves of such a law for such a purpose?—but I am aware that such is not the present question. I am aware that this is no court of impeachment; and therefore that your inquiry is, not whether such a power hath been criminally used, but whether it doth in fact exist. The arrest of the defendant has been justified by the advocates of the crown under the forty-fourth of his present majesty. I have had the curiosity to inquire into the history of that act, and I find, that in the month of May, 1804, the brother-in-law of one of the present prosecutors obtained leave to bring in a bill to "render more easy the apprehending and bringing to trial offenders escaping from one *part of the united kingdom* to another, and also from one county

to another:" that bill was brought in: it travelled in the caravan of legislation unheeded and unnoticed, retarded by no difficulties of discussion or debate, and in due fulness of season it passed into a law, which was to commence from and after the first of August, 1804. This act, like a young Hercules, began its exploits in the cradle. In the November following, the present warrant was issued, under its supposed authority. Let me not be understood to say, that the act has been slided through an unsuspecting legislature, under any particular influence, or for any particular purpose: that any such man could be found, or any such influence exist, or any such lethargy prevail, would not, perhaps, be decent to suppose; still less do I question the legislative authority of parliament. We all know that a parliament may attaint itself; and that its omnipotence may equally extend in the same way to the whole body of the people. We know also that most unjust and cruel acts of attainder have been obtained by corrupt men in bad times; and if I could bring myself to say, which I do not, that this act was contrived for the mere purpose of destroying an obnoxious individual, I should not hesitate to call it the most odious species of attainder that could be found upon the records of legislative degradation; because, for the simple purpose of extinguishing an individual, it would sweep the liberty of every being in the state, into the vortex of general and undistinguishing destruction. But these are points of view upon which the minds of the people of Ireland and England may dwell with terror or indignation, or apathy, according as they may be fitted for liberty or for chains; but they are not points for the court; and so I pass them by. The present arrest and detention are defended under the forty-fourth of the king: are they warranted by that act? That is the only question for you to decide; and you will arrive at that decision in the usual course, by inquiring, first, how the law stood before upon the subject; next, what the imperfection or grievance of that law was; and thirdly what the remedy intended to be applied by the act in question?

First, then, how stood the law before?—upon this part it would be a parade of useless learning to go farther back than the statute of Charles, the Habeas Corpus act, which is so justly called the second magna charta of British liberty: what was the occasion of the law? the arbitrary transportation of the subject beyond the realm; that base and malignant war, which the

odious and despicable minions of power are for ever ready to wage against all those who are honest and bold enough to despise, to expose, and to resist them. Such is the oscitancy of man, that he lies torpid for ages under these agressions, until at last some signal abuse, the violation of Lucrece, the death of Virginia, the oppression of William Tell, shake him from his slumber. For years had those drunken gambols of power been played in England; for years had the waters of bitterness been rising to the brim; at last a single drop caused them to sleep—and what does that great statute do? It defines and asserts the right, it points out the abuse; and it endeavours to secure the right, and to guard against the abuse, by giving redress to the sufferer, and by punishing the offender: for years had it been the practice to transport obnoxious persons out of the realm into distant parts under the pretext of punishment, or of safe custody. Well might they have been said to be sent "to that undiscovered country from whose bourne no traveller returns," for of these wretched travellers how few ever did return? But of that flagrant abuse this statute has laid the axe to the root: it prohibits the abuse; it declares such detention or removal illegal; it gives an action against all persons concerned in the offence, by contriving, writing, signing, counter-signing, such warrant, or advising or assisting therein. That you may form a just estimate of the rights which were to be secured, examine the means by which their infringement was in future to be prevented and punished. The injured party has a civil action against the offenders; but the legislature recollected, that the sneaking unprincipled humility of a servile packed jury might do homage to ministerial power by compensating the individual with nominal damages. The statute does that, of which I remember no other instance. It leaves the jury at liberty to give damages to any extent, above five hundred pounds, but expressly forbids them to find a verdict of damages below it. Was this sufficient?—No.—The offenders incur a præmunire. They are put out of the king's protection; they forfeit their lands and goods; they are disabled from bearing any office of trust or profit.—Did the statute stop there? The legislature saw in their prospective wisdom, that the profligate favourite, who had committed treason against the king by the oppression of his subjects, might acquire such a dominion over the *mind of his master*, as by the exertion of prerogative to interrupt

the course of justice, and prevent the punishment of his crime.—The king cannot pardon.—Are bulwarks like these ever constructed to repel the incursions of a contemptible enemy? Was it a trivial and ordinary occasion which raised this storm of indignation in the parliament of that day? Is the ocean ever lashed by the tempest to waft a feather or to drown a fly? Thus, haughtily and jealously, does this statute restrain the abuses that may be committed against the liberty of the subject by the judge, the jury, or the minister. One exception, and one exception only does it contain:—It excepts from its protection, by the sixteenth section, persons who may have committed any "capital offence" in Scotland or Ireland. If the principle of that exception were now open to discussion, sure I am, that much might be said against its policy. On the one side, you would have to consider the mischief of letting this statute protect a capital offender from punishment, by prohibiting his transmission to that jurisdiction where his crime was committed, and where alone he could be tried. On the other, you would have to weigh the danger to be feared from the abuse of such a power, which, as the habeas corpus act stood, could not be resorted to in any ordinary way; but was confined to the sole and exclusive exercise of the advisers of the prerogative. You would have to consider whether it was more likely that it would be used against the guilty or the obnoxious; whether it was more likely to be used as an instrument of justice against the bad, or a pretext of oppression against the good; and finally, whether you might not apply to the subject the humane maxim of our law—that better it is that one hundred guilty men should escape, than that one innocent, and, let me add, meritorious man should suffer. But our ancestors have considered the question; they have decided; and, until we are better satisfied than I fear we can be, that we have not degenerated from their virtue, it can scarcely become us to pass any light or hasty condemnation upon their wisdom. In this great statute then, my lords, you have the line of demarcation between the prerogative and the people, as well as between the criminal law and the subject, defined with all the exactness, and guarded by every precaution that human prudence could devise. Wretched must that legislature be, whose acts you cannot trace to the first unchangeable principles of rational prerogative, of civil liberty, of equal justice! In this act you trace them all dis-

tinctly. By this act you have a solemn legislative declaration, "that it is incompatible with liberty to send any subject out of the realm, under pretence of any crime supposed or alleged to be committed in a foreign jurisdiction, except that crime be capital." Such were the bulwarks which our ancestors drew about the sacred temple of liberty—such the ramparts by which they sought to bar out the ever-toiling ocean of arbitrary power; and thought, (generous credulity!) that they had barred it out from their posterity for ever. Little did they foresee the future race of vermin that would work their way through those mounds, and let back the inundation; little did they foresee that their labours were so like those frail and transient works that threatened for a while the haughty crimes and battlements of Troy, but so soon vanished before the force of the trident and the impulse of the waters; or that they were still more like the forms which the infant's finger traces upon the beach; the next breeze, the next tide erases them, and confounds them with the barren undistinguished strand. The ill-omened bird that lights upon it sees nothing to mark, to allure, or to deter, but finds all one obliterated unvaried waste;

Et sola secum sicca spatiatur arena.

Still do I hope that this sacred bequest of our ancestors will have a more prosperous fortune, and be preserved by a more religious and successful care, a polar star to the wisdom of the legislator, and the integrity of the judge.

As such will I suppose its principle not yet brought into disgrace; and as such, with your permission, will I still presume to argue upon that principle.

So stood the law till the two acts of the twenty-third and twenty-fourth of George II. which relate wholly to cases between county and county in England. Next followed the act of the thirteenth of his present majesty, which was merely a regulation between England and Scotland. And next came the act of the forty-fourth of the present reign, upon which you are now called on to decide, which, as between county and county, is an incorporation of the two acts of George II: and as between England, Scotland, and Ireland, is nearly a transcript of the thirteenth of the king.

Under the third and fourth section of this last act the learned *counsel for the learned* prosecutors (for really I think it only can-

did to acquit the lord lieutenant of the folly or the shame of this business; and to suppose that he is as innocent of the project from his temper, as he must from his education be ignorant of the subject) endeavour to justify this proceeding. The construction of this act they broadly and expressly contend to be this:—first, they assert that it extends not only to the higher crimes, but to all offences whatsoever: secondly, that it extends not only to persons who may have committed offences within any given jurisdictions, and afterwards escaped or gone out of such jurisdictions, but to all persons whether so escaping or going out or not:—thirdly, that it extends to constructive offences, that is, to offences committed against the laws of certain jurisdictions, committed in places not within them, by persons that never put their feet within them, but by construction of law committing them within such jurisdiction, and of course triable therein:—fourthly, that it extends peculiarly to the case of libels against the persons entrusted with the powers of government, or with offices in the state:—and fifthly, that it extends not only to offences committed after the commencement of the act, but also to offences at any period, however remotely previous to the existence of the statute; that is, that it is to have an *ex post facto* operation. The learned prosecutors have been forced into the necessity of supporting these last monstrous positions, because, upon the return to the writ, and upon the affidavits, it appears, and has been expressly admitted in the argument—first, that the supposed libel upon these noble and learned prosecutors relates to the unhappy circumstances that took place in Ireland on the twenty-third of July, 1803, and of course must have been published subsequent thereto:—and secondly, that Mr. Justice Johnson from the beginning of 1802 to the present hour was never for a moment in England, but was constantly resident in Ireland; so that his guilt, whatever it may be, must arise from some act, of necessity committed in Ireland, and by no physical possibility committed or capable of being committed in England: these are the positions upon which a learned chancellor and a learned judge come forward to support their cause and to stake their character, each in the face of his country, and both in the face of the British empire: these are the positions, which, thank God, it belongs to my nature to abhor, and to my education to despise, and which it is this day my most prompt and melancholy duty to refute and to

resist—most prompt in obeying; most grieved at the occasion that calls for such obedience.

We must now examine this act of the forty-fourth of the king and in doing so, I trust you will seek some nobler assistance than can be found in the principles or the practice of day-rules or sidebar motions; something more worthy a liberal and learned court, acting under a religious sense of their duty to their king, their country, and their God, than the feeble and pedantic aid of a stunted verbal interpretation, straining upon its tiptoe to peep over the syllable that stands between it and meaning. If your object was merely to see if its words could be tortured into a submission to a vindicate interpretation, you would have only to indorse the construction that these learned prosecutors have put upon it, and that with as much grave deliberation as Mr. Justice Bell has vouchsafed to indorse the warrant which my lord Ellenborough has thought fit to issue under its authority. You would then have only to look at it, *ut leguleius quidam cautus atque acutus, præcentor.*

Lord Avonmore.—No, Mr. Curran, you forget; it is not *præcentor*, it is *leguleius quidam cautus atque acutus, præco actionum, cantor formarum, auceps syllabarum.*

Mr. Curran.—I thank you, my lord, for the assistance: and I am the more grateful, because, when I consider the laudable and successful efforts that have been made of late to make science domestic and familiar, and to emancipate her from the trammels of scholarship, as well as the just suspicion under which the harbourers and abettors of those outlawed classics have fallen, I see at what a risk you have ventured to help me out. And yet see, my lord, if you are prudent in trusting yourself to the honour of an accomplice. Think, should I be prosecuted for this misprision of learning, if I could resist the temptation of escaping by turning evidence against so notorious a delinquent as you, my good lord, and so confessedly more criminal than myself, or perhaps than any other man in the empire.*

To examine this act then, my lords, we must revert to the three English statutes of which it is a transcript. The first of these is the twenty-third of George II. cap. 26, sect. 11.

So much of the title as relates to our present inquiry is "for

* Lord Avonmore may be justly ranked among the first classical scholars in either Ireland or England. They who know him, know this.

the apprehending of persons in any county or place upon warrants granted by justices of the peace in any other county or place."

See now section II., that contains the preamble and enaction as to this subject:—

"And whereas it frequently happens that persons, against whom warrants are granted by justices of the peace for the several counties within this kingdom, escape into other counties or places out of the jurisdiction of the justices of the peace granting such warrants, and thereby avoid being punished for the offences wherewith they are charged: For remedy whereof, be it enacted by the authority aforesaid, that from and after the twenty-fourth day of June, one thousand seven hundred and fifty in case any person against whom a legal warrant shall be issued by any justice or justices of the peace for any county, riding, division, city, liberty, town, or place within this kingdom, shall escape or go into any other county, riding, division, city, liberty, town, or place out of the jurisdiction of the justice or justices granting such warrant as aforesaid, it shall and may be lawful for any justice of the peace of the county, riding, division, city, liberty, town, or place, to which such person shall have gone or escaped, to endorse such warrant, upon application made to him for that purpose, and to cause the person against whom the same shall have been issued, to be apprehended and sent to the justice or justices who granted such warrant, or to some other justice or justices of the county, riding, division, city, liberty, town, or place, from whence such person shall have gone or escaped, to the end that he or she may be dealt with according to law, any law or usage to the contrary notwithstanding."

This act was amended by the twenty-fourth of the same reign, the title of which was, "An act for amending and making more effectual a clause in an act passed in the last session of parliament for the apprehending of persons in any county or place upon warrants granted by justices of the peace of any county or place."

It then recites the 11th section of the twenty-third of George II., and proceeds, "And whereas, such offender or offenders may reside or be in some other county, riding, division, city, liberty, town, or place, out of the jurisdictions of the justice or justices granting such warrant as aforesaid, before the granting such

warrant, and without escaping or going out of the county, riding, division, city, liberty, town, or place, after such warrant granted."

I shall reserve a more particular examination of these two acts for that head of my argument that shall necessarily require it. At present I shall only observe: first, that they are manifestly prospective; secondly, that they operate only as between county and county, in England; thirdly, that they clearly and distinctly go to all offenders whatsoever, who may avoid trial and punishment of their offences by escaping from the jurisdiction in which they were committed, and were of course triable and punishable; and fourthly, that provision is made for bailing the persons so arrested in the place where taken, if the offences charged upon them were bailable by law.

In the thirteenth of his present majesty, it was thought fit to make a law with respect to criminals escaping from England to Scotland, and *vice versa*: of that act the present statute of the forty-fourth is a transcript. And upon this statute arises the first question made by the prosecutors; namely, whether, like the acts of the twenty-third and twenty-fourth of George II. which were merely between county and county, it extended indiscriminately to the lowest as well as the highest offences? or whether the thirteenth and forty-fourth, which go to kingdom and kingdom, are not confined to some and to what particular species of offences? The preamble to these two statutes, so far as they bear upon our present question, is contained in the 3d section of the forty-fourth, the act now under consideration. And there is not a word in it that is not most material. It says, "Whereas, it may frequently happen that felons and other malefactors in Ireland may make their escape into Great Britain, and also, that felons and other malefactors in Great Britain may make their escape into Ireland, whereby their crimes remain unpunished." There being no sufficient provision by the laws now in force in Great Britain and Ireland, respectively, for apprehending such offenders and transmitting them into that part of the united kingdom in which their offences were committed. For remedy whereof, &c. and if any person against whom a warrant shall be issued by any justice of the peace in Ireland, for any crime or offence against the laws of Ireland, shall escape, go into, reside, *or be in any place in* England or Scotland, it shall be lawful for

any justice of the peace for the place, whither or where such persons shall escape, &c. to endorse his name on such warrant; which warrant so endorsed shall be a sufficient authority to the person bringing it to execute the same, by apprehending the person against whom it is granted, and to convey him by the most direct way into Ireland, and before a justice living near the place where he shall land, which justice shall proceed with regard to him as if he had been legally apprehended in such county of Ireland. The 4th section makes the same provision for escapes from England or Scotland into Ireland. The statute goes on and directs that the expenses of such removal shall be repaid to the person defraying the same, by the treasurer of the county in which the crime was committed, and the treasurer is to be allowed for it in his accounts.

To support the construction that takes in all possible offences of all possible degrees, you have been told, and upon the grave authority of notable cases, that the enacting part of a statute may go beyond its preamble; that it cannot be restrained by the preamble, and still less by the title; that here the enacting clause was the words "any offence," and that "any offence" must extend to every offence, and of course to the offence in question. If the question had been of a lighter kind, you might perhaps have smiled at the parade of authorities produced to establish what no lawyer ever thinks of denying. They would have acted with more advantage to the justice of the country, though perhaps not to the wishes of their clients, if they had reminded your lordships, that, in the construction of statutes, the preamble, and even the title itself, may give some assistance to the judge in developing its meaning and its extent; if they had reminded you, that remedial laws are to be construed liberally, and penal laws with the utmost strictness and caution. And when they contend that a supposed libel is within the letter of this law, they would have done well to have added, that it is a maxim that there may be cases within the letter of a statute, which, notwithstanding, the judge is bound to reject, from its operation being incompatible with its spirit. They would have done well in adding, that the judge is bound so to construe all laws as not infringe upon any of the known rules of religion or morality—any of the known rules of distributive justice—any of the established principles of the liberties and rights of the subject—and that it is no more

than a decent and becoming deference to the legislator to assume as certain, that whatever words he may have used, he could not possibly have meant any thing that upon the face of it was palpably absurd, immoral, or unjust. These are the principles on which I am persuaded this court will always act, because I know them to be the principles on which every court of justice ought to act. And I abstain studiously from appealing to any judicial decisions in support of them, because to fortify them by precedent or authority, would be to suppose them liable to be called in question. There is another rule which I can easily excuse the learned gentlemen from adverting to, and that is, that when many statutes are made in *pari materia*, any one of them is to be construed, not independently of the others, but with a reference to the entire code of which it is only a component part.

On these grounds then, I say, the forty-fourth was not, and could not be intended to go to all offences whatsoever.

First, because the acts of twenty-third and twenty-fourth of George II. had already prescribed "all persons" by words of the most general and comprehensive kind. If the framers of the thirteenth and forty-fourth meant to carry these acts to the same length, they had the words of the former acts before their eyes, and yet they have used very different words: a clear proof, in my mind, that they meant to convey a very different meaning. In these latter acts they use very singular words—"felons and other malefactors;—that these words are somewhat loose and indefinite I make no difficulty of admitting: but will any man that understands English deny, that they describe offences of an higher and more enormous degree? You are told, that felon does not necessarily mean a capital offender, because there are felonies not capital, the name being derived from the forfeiture not of life, but of property. You are also told, that malefactor means generally an ill-doer, and, in that sense, that every offender is a malefactor; but the thirteenth and forty-fourth states this class to be felons and malefactors, for whose transmission from kingdom to kingdom "no sufficient provision was made by the laws now in force." Now I think it is not unfair reasoning to say, that this act extends to a class of offenders whose transmission was admitted to be not incompatible with the just liberty of the subject of England; but for whose transmission the legislature *could not say there* was *no* provision; but for whose transmission

it was clear that there was not a sufficient provision, though there was some provision. If you can find any class so circumstanced, that is, exclusively liable by law to be so transmitted, the meaning of the words "felons and other malefactors," becomes fixed, and must necessarily refer to such class.

Now that class is expressly described in the habeas corpus act, because it declares the transmission of all persons to be illegal, except only persons charged with capital crimes; for their apprehension and transmission there was a provision, the *mandatum regis*: that is, the discretionary exercise of the prerogative. That power had therefore been used in cases of treason, as in Lundy's case: so in the case of lord Sanchar; Carliel, the principal in the murder of Turner, committed in London by the procurement of lord Sanchar, was arrested in Scotland, whither he had fled, by the order of king James I. and brought back to England, where he was executed for the crime, as was lord Sanchar, the accessory before the fact; but such interference of the prerogative might be granted or withheld at pleasure, could be applied for only with great difficulty and expense, and therefore might well be called an insufficient provision. No provision for such a purpose can be sufficient, unless, instead of depending on the caprice of men in power, it can be resorted to in the ordinary course of law. You have therefore, my lords, to elect between two constructions; one which makes an adequate provision for carrying the exception in the sixteenth section of the habeas corpus act into effect; and the other, a complete and radical repeal of that sacred security for the freedom of Englishmen.—But further, the spirit and the letter of the habeas corpus law is, that the party interested shall, without a moment's delay, be bailed, if the offence be bailable; but if misdemeanors are within this act, then an English subject, arrested under an Irish warrant, cannot be bailed within any part of the realm of England, but must be carried forward, in the custody of Irish bailiffs, to the sea-shore of his country, where he is to be embarked in such vessel as they think proper; and, if it should be the good pleasure of his guardians to let him land alive in any part of Ireland, then, and not till then, may he apply to an Irish justice to admit him to bail in a foreign country, where he is a perfect stranger, and where none but an idiot could expect to find any man disposed to make himself responsible for his appearance. Can you, my lords, bring

your minds easily to believe, that such a tissue of despotism and folly could have been the sober and deliberate intention of the legislature? but further, under the acts of George II. even from one county to the next, the warrant by the first justice must be authenticated upon oath, before it can be indorsed by the second; but, in this act, between, perhaps, the remotest regions of different kingdoms, no authentication is required; and, upon the indorsement of, perhaps, a forged warrant, which the English justice has no means of inquiring into, a British subject is to be marched through England, and carried over sea to Ireland, there to learn in the county of Kerry, or Galway, or Derry, that he had been torn from his family, his friends, his business, to the annihilation of his credit, the ruin of his affairs, the destruction of his health, in consequence of a mistake, or a practical joke, or an inhuman or remorseless project of vindictive malice; and that he is then at liberty to return, if he is able; that he may have a good action at law against the worthy and responsible bailiff that abused him, if he is foolish enough to look for him, or unfortunate enough to find him. Can you, my lords, be brought seriously to believe, that such a construction would not be the foulest aspersion upon the wisdom and justice of the legislature?

I said, my lords, that an Englishman may be taken upon the indorsement of a forged warrant. Let me not be supposed such a simpleton as to think the danger of forgery makes a shade of difference in the subject. I know too well that calendar of saints, the Irish justices; I am too much in the habit of prosecuting and defending them every term and every commission, not to be able to guess at what price a customer might have real warrants by the dozen; and, without much sagacity, we might calculate the average expense of their indorsement at the other side of the water.—But, further yet, the act provides that the expense of such transmission shall be paid at the end of the journey, by the place where the crime has been committed—but, who is to supply the expenses by the way? what sort of prosecutors do you think the more likely to advance those expenses, an angry minister, or a vindictive individual?—I can easily see that such a construction would give a most effectual method of getting rid of a troublesome political opponent; or a rival in trade; or a rival in love; or of quickening the undutiful lingering of an ancestor that felt not the maturity of his heir's but

cannot bring myself to believe, that a sober legislature, when the common rights of humanity seem to be beaten into their last intrenchment, and to make their last stand, I trust in God a successful one, in the British empire, would choose exactly that awful crisis for destroying the most vital principles of common justice and liberty; or of showing to these nations, that their treasure and their blood were to be wasted in struggling for the noble privilege of holding the right of freedom, of habitation, and of country, at the courtesy of every little irritable officer of state, or our worshipful Rivets, and Bells, and Medlicots, and their trusty and well-beloved cousins and catchpoles.

But, my lords, even if the prosecutor should succeed, which, for the honour and character of Ireland, I trust he cannot, in wringing from the bench an admission that all offences whatsoever are within this act, he will have only commenced his honourable cause: he will only have arrived at the vestibule of atrocity. He has now to show that Mr. Johnson is within the description of a malefactor, making his escape into Ireland, whereby his offence may remain unpunished, and liable to be arrested under a warrant indorsed in that place whither or where such person shall escape, go into, reside, or be. For this inquiry you must refer to the twenty-third and twenty-fourth George II. The first of these, twenty-third, c. 11. recites the mischief—"that persons against whom warrants are granted *escape* into other counties, and thereby avoid being punished."—The enacting part then gives the remedy:—"the justice for the place into which *such* person shall have gone or escaped shall indorse the original warrant, and the person accused shall thereunder be sent to the justice who granted it, to be by him dealt with, &c."

If words can be plain, these words are so: they extend to persons actually committing crimes within a jurisdiction, and actually escaping into some other after warrant granted, and thereby avoiding trial.—In this act there was found two defects:—first, it did not comprehend persons changing their abode before warrant issued, and whose removing, as not being a direct flight from pursuit, could scarcely be called an escape;—secondly, it did not give the second justice a power to bail.—And here you see how essential to justice it was deemed, that the person arrested should be bailed on the spot and the moment of arrest, if the charge was bailable.

Accordingly, the twenty-fourth of George II. cap. 55. was made.—After reciting the former act, and the class of offenders thereby described, namely, actual offenders actually escaping, it recites that "whereas *such offenders* may reside or be in some other county before the warrant granted, and without escaping or going out of the county after such warrant granted," it then enacts, "that the justice for such place where such person shall escape, go into, reside, or be, shall indorse, &c. and may bail if bailable, or transmit, &c.

Now the construction of these two acts taken together is manifestly this: it takes in every person, who, being in any jurisdiction, and committing an offence therein, escaping after warrant, or without escaping after warrant, going into some other jurisdiction, and who shall there *reside*, that is, permanently abide, or *shall* be, that is permanently, so as to be called a resident.

Now here it is admitted that Mr. Johnson was not within the realm of England since the beginning of 1802, more than a year before the offence existed; and therefore you are gravely called upon to say that he is the person who made his escape *from* a place where he never was, and into a place which he had never left.—To let in this wise and humane instruction, see what you are called upon to do:—the statute makes such persons liable to arrest if they shall have done certain things, to wit, if they shall escape, go into, reside, or be; but if the fact of simply being, *i. e.* existing in another jurisdiction, is sufficient to make them so liable, it follows of course, that the two only verbs that imply doing any thing, that is *escape or go into*, must be regarded as superfluous; that is, that the legislature had no idea whatsoever to be conveyed by them when they used them, and therefore are altogether expunged and rejected.

Such, my lords, are the strange and unnatural monsters that may be produced by the union of malignity and folly. I cannot but own that I feel an indignant, and, perhaps, ill-natured satisfaction in reflecting, that my own country cannot monopolize the derision and detestation that such a production must attract. It was originally conceived by the wisdom of the east; it has made its escape, and come into Ireland under the sanction of the first criminal judge of the empire; where, I trust in God, we shall have only to feel shame or anger at the insolence of the visit, without the melancholy aggravation of such an execrable guest

continuing *to reside* or *to be* among us. On the contrary, I will not dismiss the cheering expectation from my heart, that your decision, my lords, will show the British nation, that a country, having as just and as proud an idea of liberty as herself, is not an unworthy ally in the great contest for the rights of humanity; is no unworthy associate in resisting the progress of barbarity and military despotism; and in defending against its enemies that great system of British freedom, in which we have now a common interest, and under the ruins of which, if it should be overthrown, we must be buried in a common destruction.

I am not ignorant, my lords, that this extraordinary construction has received the sanction of another court, nor of the surprise and dismay with which it smote upon the general heart of the bar. I am aware that I may have the mortification of being told, in another country, of that unhappy decision; and I foresee in what confusion I shall hang down my head when I am told it. But I cherish too the consolatory hope, that I shall be able to tell them that I had an old and learned friend, whom I would put above all the sweepings of their hall, who was of a different opinion; who had derived his ideas of civil liberty from the purest fountains of Athens and of Rome; who had fed the youthful vigour of his studious mind with the theoretic knowledge of their wisest philosophers and statesmen; and who had refined the theory into the quick and exquisite sensibility of moral instinct, by contemplating the practice of their most illustrious examples; by dwelling on the sweet souled piety of Cimon; on the anticipated christianity of Socrates; on the gallant and pathetic patriotism of Epaminondas; on that pure austerity of Fabricus, whom to move from his integrity, would have been more difficult than to have pushed the sun from his course. I would add, that if he had seemed to hesitate, it was but for a moment; that his hesitation was like the passing cloud that floats across the morning sun, and hides it from the view, and does so for a moment hide it, by involving the spectator without even approaching the face of the luminary: and this soothing hope I draw from the dearest and tenderest recollections of my life, from the remembrance of those Attic nights, and those refections of the gods which we have spent with those admired and respected and beloved companions who have gone before us;—over whose ashes the most precious tears of Ireland have been shed: yes, my good lord, I see you do

not forget them; I see their sacred forms passing in sad review before your memory; I see your pained and softened fancy recalling those happy meetings, when the innocent enjoyment of social mirth expanded into the nobler warmth of social virtue; and the horizon of the board became enlarged into the horizon of man;—when the swelling heart conceived and communicated the pure and generous purpose,—when my slenderer and younger taper imbibed its borrowed light from the more matured and redundant fountain of yours. Yes, my lord, we can remember those nights without any other regret than that they can never more return, for

> "We spent them not in toys, or lust, or wine,
> But search of deep philosophy,
> Wit, eloquence and poesy,
> Arts which I lov'd; for they, my friend, were thine."*

But, my lords, to return to a subject from which to have thus far departed, I think, may not be wholly without excuse. The express object of the forty-fourth was to send persons *from* places where they were not triable by law, back to the places that had jurisdiction to try them. And in those very words does Mr. Justice Blackstone observe on the thirteenth of the king, that it was made to prevent impunity by escape, by giving a power of "sending back" such offenders as had so escaped.

This topic of argument would now naturally claim its place in the present discussion. I mention it now, that it might not be supposed that I meant to pretermit so important a consideration. And I only mention it, because it will connect itself with a subsequent head of this inquiry in a manner more forcibly applicable to the object; when, I think I may venture to say, it will appear to demonstration, that if the offence charged upon the defendant is triable at all, it is triable in Ireland and no where else; and of course that the prosecutors are acting in direct violation of the statute, when they seek to transport him from a place where he can be tried, into another country that can have no possible jurisdiction over him.

Let us now, my lords, examine the next position contended for by those learned prosecutors. Having laboured to prove that the act applies not merely to capital crimes, but to all offences

* Lord Avonmore was certainly a strong likeness to the picture. Those who know him perceive and acknowledge it.

whatsoever; having laboured to show that an act for preventing impunity by escape, extends to cases not only where there was no escape, but where escape in fact was physically impossible, they proceed to put forward boldly a doctrine which no lawyer, I do not hesitate to say it, in Westminister-hall would have the folly or the temerity to advance; that is, that the defendant may, by construction of law, be guilty of the offence in Westminister, though he should never have passed within its limits till he was sent thither to be tried: with what a fatal and inexorable uniformity do the tempers and characters of men domineer over their actions and conduct! How clearly must an Englishman, if by chance there be any now listening to us, discern the motives and principles that dictated the odious persecutions of 1794 re-assuming their operations; forgetting that public spirit by which they were frustrated; unappalled by fear, undeterred by shame, and returning again to the charge; the same wild and impious nonsense of constructive criminality, the same execrable application of the ill understood rules of a vulgar, clerk-like, and illiterate equity, to the sound and plain and guarded maxims of the criminal law of England! the purest, the noblest, the chastest system of distributive justice that was ever venerated by the wise or preverted by the foolish, or that the children of men in any age or climate of the world have ever yet beheld; the same instruments, the same movements, the same artists, the same doctrines, the same doctors, the same servile and infuriate contempt of humanity, and persecution of freedom! the same shadows of the varying hour that extend or contract their length, as the beam of a rising or sinking sun plays upon the gnomon of self-interest! How demonstratively does the same appetite for mice authenticate the identity of the transformed princess that had been once a cat.

But it seems as if the whole order and arrangement of the moral and the physical world had been contrived for the instruction of man, and to warn him that he is not immortal. In every age, in every country, do we see the natural rise, advancement, and decline of virtue and of science. So it has been in Greece, in Rome; so it must be, I fear, the fate of England. In science, the point of its maturity and manhood is the commencement of its old age; the race of writers, and thinkers, and reasoners passes away, and gives place to a succession of men that

can neither write, nor think, nor reason. The Hales, the Holts, and the Somers, shed a transient light upon mankind, but are soon extinct and disappear, and give place to a superficial and overweening generation of laborious and strenuous idlers,—of silly scholiasts, of wrangling mooters, of prosing garrulists, who explore their darkling ascent upon the steps of science, by the balustrade of cases and manuscripts, who calculate their depth by their darkness, and fancy they are profound because they feel they are perplexed. When the race of the Palladios is extinct, you may expect to see a clumsy hod-man collected beneath the shade of his shoulders, ανηρ τυπτετ μιγαρτα εξοχος ανδρασιν αλλοισι και, συριξας ομως, affecting to fling a builder's glance upon the temple, on the proportion of its pillars; and to pass a critic's judgment on the doctrine that should be preached within them.

Let it not, my lords, be considered amiss, that I take this up rather as an English than an Irish question. It is not merely because we have no habeas corpus law in existence; (the antiquarian may read of it, though we do not enjoy it;) it is not merely because my mind refuses to itself the delusion of imaginary freedom, and shrinks from the meanness of affecting an indignant haughtiness of spirit that belongs not to our condition, that I am disposed to argue it as an English question; but it is because I am aware, that we have now a community of interest, and of destiny that we never had before—because I am aware, that, blended as we now are, the liberty of man must fall where it is highest, or rise where it is lowest, till it finds its common level in the common empire—and because, also, I wish that Englishmen may see, that we are conscious that nothing but mutual benevolence and sympathy can support the common interest that should bind us against the external or the intestine foe; and that we are willing, whenever the common interest is attacked, to make an honest and animated resistance, as in a common cause, and with as cordial and tender anxiety for their safety as for our own.

Let me now briefly, because no subject can be shorter or plainer, consider the principle of local jurisdictions, and constructive crimes.

A man is bound to obedience, and punishable for disobedience of laws:—first, because, by living within their jurisdiction, he *avails himself of their* protection; and this is no more than the re-

ciprocality of protection and allegiance on a narrower scale: and secondly, because, by so living within their jurisdiction, he has the means of knowing them, and cannot be excused because of his ignorance of them. I should be glad to know, upon the authority of what manuscript, of what pocket-case, the soundness of these principles can be disputed? I should be glad to know upon what known principle of English law, a Chinese, or a Laplander, can be kidnapped into England, and arraigned for a crime which he committed under the pole, to the injury of a country which he had never seen—in violation of a law which he had never known, and to which he could not owe obedience—and, perhaps, for an act, the non-performance of which he might have forfeited his liberty or his life to the laws of that country which he was bound to know, and was bound to obey? Very differently did our ancestors think of that subject. They thought it essential to justice, that the jurisdiction of criminal law should be local and defined; that no man should be triable but there, where he was accused of having actually committed the offence; where the character of the prosecutor, where his own character was known, as well as the characters of the witnesses produced against him; and where he had the authority of legal process to enforce the attendance of witnesses for his defence. They were too simple to know any thing of the equity of criminal law. Poor Bracton or Fleta would have stared if you had asked them, "What, gentlemen, do you mean to say that such a crime as this shall escape from punishment!" Their answer would have been, no doubt, very simple and very foolish: they would have said, "We know there are many actions that we think bad actions, which yet are not punishable, because not triable by law; and that are not triable, because of the local limits of criminal jurisdictions." And my lords, to show with what a religious scrupulosity the locality of jurisdictions was observed, you have an instance in the most odious of all offences, treason only excepted—I mean the crime of wilful murder. By the common law, if a man in one county procured a murder to be committed which was afterwards actually committed in another, such procurer could not be tried in either jurisdiction, because the crime was not completed in either. This defect was remedied by the act of Edward VI. which made *the* author of the crime amenable to justice. But in what jurisdiction did it make him amenable? was it there where the

murder was actually perpetrated? By no means, but there only where he had been guilty of the procurement, and where alone his accessorial offence was completed. And here you have the authority of parliament for this abstract position, that where a man living in one jurisdiction, does an act, in consequence of which a crime is committed within another jurisdiction, he is by law triable only where his own personal act of procurement was committed, and not there where the procured or projected crime actually took effect. In answer to these known authorities of common law, has any statute, has a single decision or even dictum of a court, been adduced? Or, in an age when the pastry-cooks and snuff-shops have been defrauded of their natural right to these compositions that may be useful without being read, has even a single manuscript been offered to shew the researches of these learned prosecutors, or to support their cause? No, my lords; there has not.

I said, my lords, that this was a fruit from the same tree that produced the stupid and wicked prosecutions of 1794: let me not be supposed to say it is a mere repetition of that attempt, without any additional aggravation. In 1794, the design, and odious enough it was, was confined to the doctrine of constructive guilt; but it did not venture upon the atrocious outrage of a substituted jurisdiction; the Englishman was tried on English ground, where he was known, where he could procure his witnesses, where he had lived, and where he was accused of a crime, whether actual or constructive; but the locality of the trial defeated the infernal malice of those prosecutions. The speeches of half the natural day, where every juryman had his hour, were the knell of sleep, but they were not the knell of death. The project was exposed, and the destined victims were saved. A piece so damned could not safely be produced again on the same stage. It was thought wise, therefore, to let some little time pass, and then to let its author produce it on some distant provincial theatre for his own benefit, and at his own expense and hazard. To drag an English judge from his bench, or an English member of parliament from the senate, and in the open day, in the city of London, to strap him to the roof of a mail coach, or pack him up in a waggon, or hand him over to an Irish bailiff, with a rope tied about his leg, to be goaded forward like an ox, on his way to Ireland, *to be there tried* for a constructive misdemeanor, would be

an experiment, perhaps, not very safe to be attempted. These Merlins, therefore, thought it prudent to change the scene of their sorcery;

Modo Romæ, modo ponit Athenis!

The people of England might, perhaps, enter into the feelings of such an exhibition with an officiousness of sympathy, not altogether for the benefit of the contrivers—

Nec natos coram populo Medea trucidet—

and it was thought wise to try the second production before spectators whose necks were pliant, and whose hearts were broken; where every man who dared to refuse his worship to the golden calf, would have the furnace before his eyes, and think that it was at once useless and dangerous to speak, and discreet at least, if it was not honest, to be silent.—I cannot deny that it was prudent to try an experiment, that if successful, must reduce an Englishman to a state of slavery more abject and forlorn than that of the helots of Sparta, or the negroes of your plantations—for see, my lords, the extent of the construction now broadly and directly contended for at your bar.—The king's peace in Ireland, it seems, is distinct from his peace in England, and both are distinct from his peace in Scotland; and, of course, the same act may be a crime against each distinct peace, and severally and successively punishable in each country—so much more inveterate is the criminality of a constructive than of an actual offence. So that the same man for the same act against laws that he never heard of, may be punished in Ireland, be then sent to England by virtue of the warrant of Mr. Justice Bell, indorsed by my lord Ellenborough, and, after having his health, his hopes, and his property destroyed for his constructive offences against his majesty's peace in Ireland, and his majesty's peace in England, he may find that his majesty's peace in the Orkneys has, after all, a vested remainder in his carcass; and, if it be the case of a libel, for the full time and term of fourteen years from the day of his conviction before the Scottish jurisdiction, to be fully completed and determined. Is there, my lords, can there be a man who hears me, that does not feel that such a construction of such a law would put every individual in society under the despotical dominion, would reduce him to be the despicable chattel of those most likely to abuse their power, the profligate of

the higher, and the abandoned of the lower orders; to the remorseless malice of a vindictive minister, to the servile instrumentality of a trading justice?—Can any man who hears me conceive any possible case of abduction, of rape, or of murder, that may not be perpetrated, under the construction now shamelessly put forward?—Let us suppose a case:—By this construction a person in England, by procuring a misdemeanor to be committed in Ireland, is constructively guilty in Ireland, and, of course, triable in Ireland—let us suppose that Mr. Justice Bell receives, or says he receives information, that the lady of an English nobleman wrote a letter to an Irish chambermaid, counselling her to steal a row of pins from an Irish pedlar, and that the said row of pins was, in consequence of such advice and counsel, actually stolen, against the Irish peace of our lord the king; suppose my lord Ellenborough, knowing the signature, and reverencing the virtue of his tried and valued colleague, indorses this warrant; is it not clear as the sun, that this English lady may, in the dead of night, be taken out of her bed, and surrendered to the mercy of two or three Irish bailiffs, if the captain that employed them should happen to be engaged in any cotemporary adventure nearer to his heart, without the possibility of any legal authority interposing to save her, to be matronized in a journey by land, and a voyage by sea, by such modest and respectable guardians, to be dealt with during the journey as her companions might think proper—and to be dealt with after by the worshipful correspondent of the noble and learned lord, Mr. Justice Bell, according to law?—I can, without much difficulty, my lords, imagine, that after a year or two had been spent in accounts current, in drawing and re-drawing for human flesh, between our worthy Bells and Medlicots on this side of the water, and their noble or their ignoble correspondents on the other, that they might meet to settle their accounts, and adjust their balances, I can conceive that the items might not be wholly destitute of curiosity:—Brother B. I take credit for the body of an English patriot.—Brother E., I set off against it that of an Irish judge.—Brother B., I charge you in account with three English bishops.—Brother E., I set off Mrs. M'Lean and two of her chickens; petticoat against petticoat.—Brother B., I have sent you the body of a most intractable disturber, a fellow that has had the impudence to give a threshing to *Bonaparte himself*; I have sent you Sir Sidney.—Dearest

brother E.—But I see my learned opponents smile—I see their meaning.—I may be told, that I am putting imaginary and ludicrous, but not probable, and therefore, not supposable cases.—But I answer, that reasoning would be worthy only of a slave, and disgraceful to a freeman. I answer, that the condition and essence of rational freedom is, not that the subject probably will not be abused, but that no man in the state shall be clothed with any discretionary power, under the colour and pretext of which he can dare to abuse him. As to probability, I answer, that in the mind of man there is no more instigating temptation to the most remorseless oppression, than the rancour and malice of irritated pride and wounded vanity.—To the argument of improbability, I answer, the very fact, the very question in debate. nor to such answer can I see the possibility of any reply, save that the prosecutors are so heartily sick of the point of view into which they have put themselves by their prosecution, that they are not likely again to make a similar experiment. But when I see any man fearless of power, because it possibly, or probably, may not be exercised upon him, I am astonished at his fortitude; I am astonished at the tranquil courage of any man who can quietly see that a loaded cannon is brought to bear upon him, and that a fool is setting at its touch-hole with a lighted match in his hand. And yet, my lords, upon a little reflection, what is it, after what we have seen, that should surprise us, however it may shock us? What have the last ten years of the world been employed in, but in destroying the land-marks of rights, and duties, and obligations; in substituting sounds in the place of sense; in substituting a vile and canting methodism in the place of social duty and practical honour; in suffering virtue to evaporate into phrase, and morality into hypocrisy and affectation?—We talk of the violations of Hamburgh or of Baden; we talk of the despotical and remorseless barbarian who tramples on the common privileges of the human being; who, in defiance of the most known and sacred rights, issues the brutal mandate of usurped authority; who brings his victim by force within the limits of a jurisdiction to which he never owed obedience, and there butchers him for a constructive offence. Does it not seem as if it was a contest whether we should be more scurrilous in invective, or more atrocious in imitation? Into what a condition must we be sinking, when we have the front to select as the subjects of our obloquy,

those very crimes which we have flung behind us in the race of profligate rivality!

My lords, the learned counsel for the prosecutors have asserted, that this act of the forty-fourth of the king extends to all offences, no matter how long or previously to it they may have been committed.—The words are, "That from and after the first day of August, 1804, if any person, &c. shall escape, &c."—Now, certainly nothing could be more convenient for the purpose of the prosecutors than to dismiss, as they have done, the words "escape and go into," altogether. If those words could have been saved from the ostracism of the prosecutors, they must have designated some act of the offenders, upon the happening or doing of which the operation of the statute might commence; but the temporary bar of these words they wave by the equity of their own construction, and thereby make it a retrospective law; and having so construed it a manifestly *ex post facto* law, they tell you it is no such thing, because it creates no new offence, and only makes the offender amenable who was not so before. The law professes to take effect only from and after the first of August 1804. Now for eighteen months before that day, it is clear that Mr. Johnson could not be removed, by any power existing, from his country and his dwelling; but at the moment the act took effect, it is made to operate upon an alleged offence, committed, if at all, confessedly eighteen months before. But another word as to the assertion, that it is not *ex post facto*, because it creates no new crime, but only makes the party amenable. The force of that argument is precisely this:—If this act inflicted deportation on the defendant by way of punishment after his guilt had been established by conviction, that would, no doubt, be tyrannical, because *ex post facto;* but here he suffers the deportation, while the law is bound to suppose him perfectly innocent; and that only by way of process to make him amenable, not by way of punishment: and surely he cannot be so unreasonable as not to feel the force of the distinction. How naturally, too, we find similar outrages resort to similar justifications! Such exactly was the defence of the forcible entry into Baden. Had that been a brutal violence, committed in perpetration of the murder of the unfortunate victim, perhaps very scrupulous moralists might find something in it to disapprove; but his imperial majesty was too delicately tender of the rights of individuals and of nations, to do

any act so flagrant as that would be, if done in that point of view; but his imperial majesty only introduced a clause of *ne omittas* into his warrant, whereby the worshipful Bells and Medlicots that executed it, were authorized to disregard any supposed fantastical privilege of nations that gave sanctuary to traitors; and he did that from the purest motives; from as disinterested a love of justice as that of the present prosecutors, and not at all in the way of an *ex post facto* law, but merely as process to bring him in, and make him amenable to the competent and unquestionable jurisdiction of the *bois de Roulogne*.—Such are the wretched sophistries to which men are obliged to have recourse, when their passions have led them to do what no thinking man can regard without horror; what they themselves cannot look at without shame; and for which no legitimate reasoning can suggest either justification or excuse. Such are the principles of criminal justice, on which the first experiment is made in Ireland; but I venture to pledge myself to my fellow-subjects of Great Britain, that if the experiment succeeds, they shall soon have the full benefit of that success. I venture to promise them, they shall soon have their full measure of this salutary system for making men "amenable," heaped and running over into their bosoms.

There now remains, my lords, one, and only one topic of this odious subject, to call for observation. The offence here appears by the return and the affidavits to be a libel upon the Irish government, published by construction in Westminster. Of the constructive commission of a crime in one place by an agent, who, perhaps, at the moment of the act, is in another hemisphere, you have already enough:—here, therefore, we will consider it simply as an alleged libel upon the Irish government; and whether, as such, it is a charge coming within the meaning of the statute, and for which a common justice of peace in one kingdom is empowered to grant a warrant for conveying the person accused for trial into the other. Your lordships will observe, that in the whole catalogue of crimes for which a justice of peace may grant a warrant, there is not one that imposes upon him the necessity of deciding upon any matter of law, involving the smallest doubt or difficulty whatsoever. In treason, the overt act; in felony, whether capital or not, the act; in misdemeanors, the simple act; the dullest justice can understand what is a breach of the peace, and can describe it in his warrant.

It is no more than the description of a fact which the informer has seen and sworn to. But no libel comes within such a class, for it is decided over and over, that a libel is no breach of the peace; and upon that ground it was that Mr. Wilkes, in 1763, was allowed the privilege of parliament, which privilege does not extend to any breach of the peace.

See then, my lords, what a task is imposed upon a justice of the peace, if he is to grant such a warrant upon such a charge: he no doubt may easily comprehend the allegation of the informer as to the fact of writing the supposed libel; in deciding whether the facts sworn amounted to a publication or not, I should have great apprehension of his fallibility; but if he got over those difficulties, I should much fear for his competency to decide what given facts would amount to a constructive publication.—But even if he did solve that question, a point on which, if I were a justice, I should acknowledge myself most profoundly ignorant, he would then have to proceed to a labour in which I believe no man could expect him to succeed: that is, how far the paper sworn to was, in point of legal construction, libellous or not. I trust this court will never be prevailed upon to sanction, by its decision, a construction that would give to such a set of men a power so incompatible with every privilege of liberty, or of law. To say it would give an irresistible power of destroying the liberty of the press in Ireland, would, I am aware, be but a silly argument, where such a thing has long ceased to exist; but I have for that very reason a double interest now, as a subject of the empire, in that noble guardian of liberty in the sister nation. When my own lamp is broken, I have a double interest in the preservation of my neighbour's. But if every man in England, who dares to observe, no matter how honestly and justly, upon the conduct of Irish ministers, is liable to be torn from his family, and dragged hither by an Irish bailiff, for a constructive libel against the Irish government, and upon the authority of an Irish warrant, no man can be such a fool as not to see the consequence. The inevitable consequence is this: that at this awful crisis, when the weal, not of this empire only, but of the whole civilized world, depends on the steady faith and the consolidated efforts of these two countries—when Ireland is become the right arm of England—when every thing that draws the common *interest and affection* closer gives the hope of life—when every

thing that has even a tendency to relax that sentiment is a symptom of death,—even at such a crisis may the rashness or folly of those entrusted with its management so act as to destroy its internal prosperity and repose, and lead it into the two-fold, fatal error, of mistaking its natural enemies for its friends, and its natural friends for its natural enemies; without any man being found so romantically daring as to give notice of the approaching destruction.

My lords, I suppose the learned counsel will do here what they have done in the other court; they will assert, that this libel is not triable here; and they will argue, that so false and heinous a production surely ought to be triable somewhere. As to the first position, I say the law is directly against them. From a very early stage of the discussion, the gentlemen for the prosecution thought it wise for their clients, to take a range into the facts much more at large than they appeared on the return to the writ, or even by the affidavits that have been made; and they have done this to take the opportunity of aggravating the guilt of the defendant, and at the same time of panegyrising their clients; they have therefore not argued upon the libel generally as a libel, but they thought it prudent to appear perfectly acquainted with the charges which it contains:—they have therefore assumed, that it relates to the transactions of the twenty-third of July, 1803, and that the guilt of the defendant was, that he wrote that letter in Ireland, which was afterwards published in England; not by himself, but by some other persons. Now, on these facts, nothing can be clearer than that he is triable here. If it be a libel, and if he wrote it here, and it was published in England, most manifestly there must have been a precedent publication, not merely by construction of law, in Ireland, but a publication by actual fact; and for this plain reason, if you for a moment suppose the libel in his possession (and if he did in fact write it, I can scarcely conceive that it was not, unless he wrote it perhaps by construction,) there was no physical means of transmitting it to England that would not amount to a publication here; because, if he put it into the post-office, or gave it to a messenger to carry thither, that would be complete evidence of publication against him: so would the mere possession of the paper, in the hands of the witness who appeared and produced it, be perfect evidence, if not accounted for or contra-

dicted, to charge him with the publication; so that really I am surprised how gentlemen could be betrayed into positions so utterly without foundation. They would have done just as usefully for their clients, if they had admitted, what every man knows to be the fact, that is, that they durst not bring the charge before an Irish jury. The facts of that period were too well understood. The Irish public might have looked at such a prosecution with the most incredulous detestation; and if they had been so indiscreet as to run the risk of coming before an Irish jury, instead of refuting the charges against them as a calumny, they would have exposed themselves to the peril of establishing the accusation, and of raising the character of the man whom they had the heart to destroy, because he had dared to censure them. Let not the learned gentlemen, I pray, suppose me so ungracious as to say, that this publication, which has given so much pain to their clients, is actually true; I cannot personally know it to be so, nor do I say so, nor is this the place or the occasion to say that it is so. I mean only to speak positively to the question before you, which is matter of law. But as the gentlemen themselves thought it meet to pronounce an eulogy on their clients, I thought it rather unseemly not to show that I attended to them: I have most respectfully done so; I do not contradict any praise of their virtues or their wisdom, and I only wish to add my very humble commendation of their prudence and discretion, in not bringing the trial of the present libel before a jury of this country.

The learned counsel have not been contented with abusing this libel as a production perfectly known to them; but they have wandered into the regions of fancy. No doubt the other judges, to whom those pathetic flights of forensic sensibility were addressed, must have been strongly affected by them. The learned gentlemen have supposed a variety of possible cases. They have supposed cases of the foulest calumniators aspersing the most virtuous ministers. Whether such supposed cases have been suggested by fancy, or by fact, it is not for me to decide; but I beg leave to say, that it is as allowable to us as to them to put cases of supposition:

> ——Cur ego si fingere pauca
> Possum, invidear?

Let me then, my lords, put an imaginary case of a different kind —

Let me suppose, that a great personage, entrusted with the safety of the citadel (meaning and wishing perhaps well, but misled by those lacquered vermin that swarm in every great hall,) leaves it so loosely guarded, that nothing but the gracious interposition of Providence has saved it from the enemy. Let me suppose another great personage going out of his natural department, and, under the supposed authority of high station, disseminating such doctrines as tend to root up the foundation of society —to destroy all confidence between man and man—and to impress the great body of the people with a delusive and desperate opinion, that their religion could dissolve or condemn the sacred obligations that bind them to their country—that their rulers have no reliance upon their faith, and are resolved to shut the gates of mercy against them.

Suppose a good and virtuous man saw, that such doctrines must necessarily torture the nation into such madness and despair, as to render them unfit for any system of mild or moderate government; that if, on one side, bigotry or folly shall inject their veins with fire, such a fever must be kindled as can be allayed only by keeping a stream of blood perpetually running from the other, and that the horrors of martial law must become the direful but inevitable consequence. In such a case, let me ask you what would be his indispensable duty?—it would be, to avert such dreadful dangers, by exposing the conduct of such persons; by holding up the folly of such bigoted and blind enthusiasm to condign derision and contempt: and painfully would he feel that on such an occasion he must dismiss all forms and ceremonies; and that to do his duty with effect, he must do it without mercy He should also foresee, that a person so acting, when he returned to those to whom he was responsible, would endeavour to justify himself by defaming the country which he had abused—for calumny is the natural defence of the oppressor: he should, therefore, so reduce his personal credit to its just standard, that his assertions might find no more belief than they deserved. Were such a person to be looked on as a mere private individual, charity and good nature might suggest not a little in his excuse. An inexperienced man, new to the world, and in the honey-moon of preferment, would run no small risk of having his head turned in Ireland. The people in our island are by nature penetrating, sagacious, artful and comic—'*natio comœda est.*' In no country

under heaven would an ass be more likely to be hood-winked, by having his ears drawn over his eyes, and acquire that fantastical alacrity that makes dulness disposable to the purpose of humor ous malice, or interested imposture. In Ireland, a new great man could get the freedom of a science as easily as of a corporation, and become a doctor, by construction, of the whole Encyclopædia, and great allowance might be made under such circumstances for indiscretions and mistakes, as long as they related only to himself; but the moment they become public mischiefs, they lose all pretensions to excuse—the very ambition of incapacity is a crime not to be forgiven; and however painful it may be to inflict, it must be remembered, that mercy to the delinquent would be treason to the public.

I can the more easily understand the painfulness of the conflict between charity and duty, because at this moment I am labouring under it myself; and I feel it the more acutely, because I am confident, that the paroxysms of passion that have produced these public discussions have been bitterly repented of. I think, also, that I should not act fairly if I did not acquit my learned opponents of all share whatsoever in this prosecution—they have too much good sense to have advised it; on the contrary, I can easily suppose, Mr. Attorney-general sent for to give counsel and comfort to his patient; and after hearing no very concise detail of his griefs, his resentments, and his misgivings, methinks I hear the answer that he gives, after a pause of sympathy and reflection:—"No, sir, don't proceed in such a business; you will only expose yourself to scorn in one country, and to detestation in the other. You know you durst not try him here, where the whole kingdom would be his witness. If you should attempt to try him there, where he can have no witness, you will have both countries upon your back. An English jury would never find him guilty. You will only confirm the charge against yourself; and be the victim of an impotent, abortive malice. If you should have any ulterior project against him, you will defeat that also; for those that might otherwise concur in the design, will be shocked and ashamed of the violence and folly of such a tyrannical proceeding, and will make a merit of protecting him, and of leaving you in the lurch.—What you say of your own feelings, I can easily conceive.—You think you have been much exposed by those letters; but then remember, my dear sir, that a man

can claim the privilege of being made ridiculous or hateful by no publications but his own. Vindictive critics have their rights, as well as bad authors. The thing is bad enough at best; but if you go on, you will make it worse—it will be considered an attempt to degrade the Irish bench and the Irish bar; you are not aware what a nest of hornets you are disturbing. One inevitable consequence you don't foresee; you will certainly create the very thing in Ireland, that you are so afraid of—a newspaper; think of that, and keep yourself quiet; and, in the mean time, console yourself with reflecting, that no man is laughed at for a long time: every day will procure some new ridicule that must supersede him."—Such, I am satisfied, was the counsel given; but I have no apprehension for my client, because it was not taken. Even if it should be his fate to be surrendered to his keepers—to be torn from his family—to have his obsequies performed by torch light—to be carried to a foreign land, and to a strange tribunal, where no witness can attest his innocence; where no voice that he ever heard can be raised in his defence; where he must stand mute, not of his own malice, but the malice of his enemies—yes, even so, I see nothing for him to fear: that all gracious Being, that shields the feeble from the oppressor, will fill his heart with hope, and confidence, and courage; his sufferings will be his armour, and his weakness will be his strength: he will find himself in the hands of a brave, a just, and a generous nation: he will find that the bright examples of her Russels and her Sidneys have not been lost to her children; they will behold him with sympathy and respect, and his persecutors with shame and abhorrence; they will feel, too, that what is then his situation, may to-morrow be their own—but their first tear will be shed for him, and the second only for themselves: their hearts will melt in his acquittal; they will convey him kindly and fondly to their shore; and he will return in triumph to his country, to the threshold of his sacred home, and to the weeping welcome of his delighted family: he will find that the darkness of a dreary and a lingering night hath at length passed away, and that joy cometh in the morning.—No. my lords, I have no fear for the ultimate safety of my client. Even in these very acts of brutal violence that have been committed against him, do I hail the flattering hope of final advantage to him, and of better days and more prosperous fortune for this afflicted country—that country of which I have so often

abandoned all hope, and which I have been so often determined to quit for ever.

Sæpe vale dicto multa sum deinde locutus
Et quasi discedens oscula summa dabam,
Indulgens animo, pes tardus erat.

But I am reclaimed from that infidel despair—I am satisfied, that while a man is suffered to live, it is an intimation from providence that he has some duty to discharge, which it is mean and criminal to decline: had I been guilty of that ignominious flight, and gone to pine in the obscurity of some distant retreat, even in that grave I should have been haunted by those passions by which my life had been agitated—

Quæ cura vivos, eadem sequitur tellure repostos..

And, if the transactions of this day had reached me, I feel how my heart would have been agonised by the shame of the desertion; nor would my sufferings have been mitigated by a sense of the feebleness of that aid, or the smallness of that service which I could render or withdraw. They would have been aggravated by the consciousness that, however feeble or worthless they were, I should not have dared to thieve them from my country.—I have repented—I have staid—and I am at once rebuked and rewarded by the happier hopes that I now entertain.—In the anxious sympathy of the public—in the anxious sympathy of my learned brethren, do I catch the happy presage of a brighter fate for Ireland. They see, that within these sacred walls, the cause of liberty and of man may be pleaded with boldness, and heard with favour. I am satisfied they will never forget the great trust, of which they alone are now the remaining depositaries. While they continue to cultivate a sound and literate philosophy—a mild and tolerating christianity—and to make both the sources of a just, and liberal, and constitutional jurisprudence, I see every thing for us to hope. Into their hands, therefore, with the most affectionate confidence in their virtue, do I commit these precious hopes. Even I may live long enough yet to see the approaching completion, if not the perfect accomplishment of them. Pleased shall I then resign the scene to fitter actors—pleased shall I lay down my wearied head to rest, and say, 'Lord, now lettest thou thy servant depart in peace, according to thy word; for mine eyes have seen their salvation."

COURT OF ROLLS.

MERRY *versus* RT. REV. DOCTOR JOHN POWER, R. C. BISHOP OF WATERFORD.

THE FACTS ARE AS FOLLOW.

In 1804, *Mary Power* made her will, bequeathing a considerable part of her property to the Rev. John Power, and others, in trust for charitable purposes. Her brother Joseph, then a merchant in Spain, was her next of kin, and residuary legatee: he died intestate, and his son, the now plaintiff, came over and took out administration to his deceased father, and brought a suit in the spiritual court, to set aside the will, as unduly obtained, and as disposing of a large property to papists, and for superstitious uses. In that court the plaintiff applied for an administrator *pendente lite*, and was refused. The present bill was filed, praying that the effects might be brought into court. This bill was filed only a few weeks; and now, before the defendant had answered, a motion was made by doctor Vavasour, for a receiver; and that doctor Power, the acting executor, should be ordered forthwith to bring the effects into court; he relied on the affidavit of his client, the plaintiff, charging that the will was obtained by fraud by the defendant, Power, and that at best it could not be sustained, as being a trust altogether for *popish uses*. The motion was opposed by Mr. Prendergast, who strongly argued against the imputations thrown out upon the conduct of doctor Power, by the name of this "*one John Power, a popish priest.*" He insisted, that under the whole circumstances there was no colour for impeaching the transaction; that the bequests were most praise-worthy; that there had already been a decree of *this* court obtained by the trustees of charitable donations, affirming the legality of the trusts, and that it would be unprecedented for a court to interfere in this way, and before an answer

came in; or any delay or resistance, on the part of the defendant, to put in his answer. Other gentlemen, on both sides, argued very zealously for their clients.

His honor, (Mr. Curran,) said, that if the question had been brought forward upon the mere rule of the court, he should not have thought it necessary to give many reasons for the order he intended to make; but pressed so strongly as it has been, both by the arguments themselves, and perhaps more so by the style and manner of putting them, as well as the supposed policy which has been called in to aid them:

"I think," said his honour, "I ought to state the grounds upon which I mean to act in my decision. First, then, it is urged, that this is the case of an insolvent and wasting executor, having fraudulently obtained the will. As to insolvency—to be an executor it is not necessary to be rich; integrity and discretion are the essential qualities of an executor. If the testator thinks he has found these in an executor of humble means, this court has no power to control him; he may bestow his property as a gift to whom he pleases: it would be strange if he could not confide it as a trust to whom he chooses. I know of no necessary connexion between wealth and honesty;—I fear that integrity is not always found to be the parent or offspring of riches. To interfere, therefore, as now sought, with this executor, would be little short of removing the will. But it is said this will has been obtained by fraud, practised by this "*one John Power.*" No doubt this court has acted, where strong ground of suspicion of fraud, and danger of the property being made away with, have appeared; but, do these grounds now appear to this court?

Here his honour recapitulated the facts sworn to, and said:

I see no semblance of fact to sustain such a charge. Who does this "*one John Power, a Popish priest,*" turn out to be?—I find he is a catholic clergyman—a doctor in divinity, and the titular bishop in the diocess of Waterford. And yet I am now pressed to believe that this gentleman has obtained this will by fraud. Every fact now appearing repels the charge; I cannot but say that the personal character of the person accused, repels it still more strongly. Can I be brought, on grounds like those now before me, to believe that a man, having the education of a scholar, the habits of a religious life, and vested with so high a character in the ministry of the gospel, could be capable of so

detestable a profanation as is flung upon him?—Can I forget that he is a christian bishop, clothed not in the mere authority of a sect, but clothed in the indelible character of the episcopal order—suffering no diminution from his supposed heterodoxy, nor drawing any increase or confirmation from the merits of his conformity, should he think proper to renounce what we call the errors of his faith?—Can I bring my mind on slight, or rather on no grounds, to believe, that he could trample under his feet all the impressions of that education, of those habits, and of that high rank in the sacred ministry of the gospel which he holds, as to sink to the odious impiety imputed to him?—Can I bring myself to believe such a man, at the dying bed of his fellow-creature, would be capable with one hand of presenting the cross before her lifted eye, and with the other, of basely thieving from her those miserable dregs of this world, of which his perfidious tongue was employed in teaching her a christian's estimate?—I don't believe it; on the contrary, I am (as far as it belongs to me in this interlocutory way, to judge of the fact) as perfectly convinced that the conduct of doctor Power was what it ought to be, as I am that the testatrix is dead.

"But," said his honour, "I am called on to interfere, *it being a foolish bequest to superstitious, and those popish, uses!* I have looked into those bequests.—I find the object of them is to provide shelter and comfortable support for poor helpless females; and clothes, and food, and instruction for poor orphan children. Would to God I could see more frequent instances of such bequests! Beautiful in the sight of God must it be—beautiful in the sight of man ought it to be, to see the dying christian so employed—to see the last moments of human life so spent in acts of gratuitous benevolence, or even of interested expiation.—How can we behold such acts, without regarding them as forming a claim, as springing from a consciousness of immortality? In all ages the hour of death has been considered as an interval of more than ordinary illumination; as if some rays from the light of the approaching world had found their way to the darkness of the parting spirit, and revealed to it an existence that could not terminate in the grave, but was to commence in death.

"But these uses are condemned, as being not only superstitious, but popish uses. As to that, I must say that I feel no disposition to give any assistance even to the orthodox rapine of the living,

in defeating even the heterodox charity of the dead. I am aware that this objection means somewhat more than directly meets the ear, if it means any thing. The objects of these bequests it seems, are catholics, or, as they have been called, *papists*, and the insinuation clearly is, that the religion of the objects of this woman's bounty calls upon me to exercise some peculiar rigour of interference to abridge or defeat her intentions. Upon this point I wish to be distinctly understood; I don't conceive this to be the spirit of our existing law; nor, of course, the duty of this court to act upon that principle in the way contended for In times, thank God, now past, the laws would have warranted such doctrines. *Those laws owed their existence to unfortunate combinations of circumstances that were thought to render them necessary. But if we look back with sorrow to their enactment, let us look forward with kindness and gratitude to their repeal. Produced by national calamity, they were brought, by national benevolence, as well as by national contrition, to the altar of public Justice and Concord, and there offered as a sacrifice to atone, to heal, to conciliate, to restore social confidence, and to give us that hope of prosperity and safety, which no people ever had, or deserved, or dared to have,* except where it is founded on a community of interests, a perfectly even and equal participation of just rights, and a subsequent contribution of all the strength—of all the parts so equally interested in the defence of the whole.

"I know they have been supposed to originate in religious bigotry—that is, religious zeal carried to excess—I never thought so. The real spirit of our holy religion is too incorruptibly pure and beneficent to be depraved into any such excess. Analyze the bigot's object, and we see he takes nothing from religion but a flimsy pretext in the profanation of its name; he professes the correction of error and the propagation of truth. But when he has gained the victory, what are the terms he makes for himself? Power and profit. What terms does he make for religion? Profession and conformity.—What is that profession? the mere utterance of the lips—the utterance of sounds, that, after a pulsation or two upon the air, are just as visible and lasting as they are audible. What is the conformity? Is it the practice of any social virtue or christian duty? Is it the forgiveness of injuries, or the payment of debts, or the practice of charity? No such *things. It is the* performance of some bodily gesture or attitude.

It is going to some place of worship. It is to stand or to kneel, or to bow to the poor box; but it is not a conformity that has any thing to do with the judgment, or the heart, or the conduct. All these things bigotry meddles not with, but leaves them to religion herself to perform. Bigotry only adds one more, and that a very odious one, to the number of those human stains which it is the business of true religion not to burn out with the bigot's fire, but to expunge and wash away by the christian's tears.—Such, invariably, in all countries and ages, have been the motives to the bigot's conflicts, and such the use of his victories: not the propagation of any opinion, but the engrossment of power and plunder—of homage and tribute. Such, I much fear, was the real origin of our popery laws.—But power and privilege must necessarily be confined to very few. In hostile armies you find them pretty equal, the victors and the vanquished, in the numbers of their hospitals and in the numbers of their dead; so it is with nations; the great mass is despoiled and degraded, but the spoil itself is confined to few indeed. The result finally can be nothing but the disease of dropsy and decrepitude. In Ireland this was peculiarly the case. Religion was dishonoured, man was degraded, and social affections were almost extinguished. A *few, a very few* still profited by this abasement of humanity. But let it be remembered, with a just feeling of grateful respect to their patriotic and disinterested virtue, and it is for this purpose that I have alluded as I have done, that *that* few composed the whole power of the legislature which concurred in the repeal of that system, and left remaining of it, not an edifice to be demolished, but a mere heap of rubbish, unsightly, perhaps pernicious—to be carted away.

"If the repeal of those laws had been a mere abjuration of intolerance, I should have given it little credit. The growing knowledge of the world, particularly of the sister nation, had disclosed and unmasked intolerance;—had put it to shame, and consequently to flight! *But though public opinion may proscribe intolerance, it cannot take away powers or privileges established by law.* Those powers of exclusion and monopoly could be given up only by the generous relinquishment of those who possessed them. And nobly were they so relinquished by those repealing statutes Those lovers of their country saw the public necessity of the sacrifice, and most disinterestedly did they make it. If too, they

have been singular in this virtue, they have been as singularly fortunate in their reward. In general, the legislator, though he sows the seed of public good, is himself numbered with the dead before the harvest can be gathered. With us it has not been so—with us the public benefactors, many of them at least, have lived to see the blessing of heaven upon their virtue, in an uniformly accelerating progress of industry and comfort, and liberality, and social affection, and common interest, such as I do not believe that any age or nation has ever witnessed.

"Such do I know was the view, and such the hope with which that legislature, *now no more!* proceeded so far as they went, in the repeal of those laws so repealed. And well do I know how warmly it is now remembered by every thinking catholic, that not a single voice for those repeals was or could be given except by a protestant legislator. *With infinite pleasure do I also know and feel that the same sense of justice and good will which then produced the repeal of those laws, is continuing to act, and with increasing energy, upon those persons, in both countries, whose worth and whose wisdom are likely to explode whatever principle is dictated by bigotry or folly; and to give currency and action to whatever principle is wise and salutary. Such, also, I know to be the feelings of every court in this hall. It is from this enlarged and humanized spirit of legislation, that courts of justice ought to take their principles of expounding the law.*

"At another time I should probably have deemed it right to have preserved a more respectful distance from some subjects which I have presumed (but certainly with the best intentions, and, I hope, no unbecoming freedom) to approach:—but I see the interest the question has excited; and I think it right to let no person carry away with him any mistake, as to the grounds of my decision, *or suppose that it is either the duty or the disposition of our courts to make any harsh or jealous distinctions in their judgment, founded on any differences of religious sects or tenets.* I think therefore, the motion ought to be refused; and I think myself bound to mark still more strongly my sense of its impropriety, by refusing it with full costs."

SPEECHES

OF THE

RIGHT HON. HENRY GRATTAN,

WITH

PREFATORY OBSERVATIONS.

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INTRODUCTION.

WHEN the editor of Mr. GRATTAN's speeches first entertained the idea of collecting and compiling the eloquence of his distinguished countryman, he was influenced by two considerations to the prosecution of so important and national a work. The first, that the present circumstances under which his country was placed, required more than ever, the general diffusion of those principles which first tended to promote the happiness and prosperity of Ireland. The second, that he conceived he would add, in a great and eminent degree, to the many valuable works of this kind which are daily issuing from the press, and gratify that taste for eloquence which has been so much the object of every man's attainment and ambition. The only claim which the editor of this volume has to public patronage is, that he has spared no labour in endeavouring to give to the public the most faithful reports of the speeches which he has collected, and that he has diligently examined the various records where the best and most faithful reports could be found.—That he has made every effort to do justice to the splendid talents of Mr. GRATTAN, by an attentive comparison of those reports, will, perhaps, be acknowledged by such readers, who have been witnesses of the great exertions of our orator; exertions which now constitute a new era in English eloquence. In collecting the productions of that mind which so eloquently poured forth its treasures—in compiling, with industry and care, the labours of that man, whose talents raised his country from slavery to freedom, the editor hopes, if he shall not enjoy the praise, he may at least escape the severity, of the critic; and that he shall have gratified the friend of literature, and the man of taste, the admirer of genius, and the advocate of liberal principles and enlightened legislation, by rescuing the speeches of Mr. GRATTAN from the mouldering records of newspapers, and the widely extended surface of parliamentary debates: and it is a debt which the editor owes to the fame of this distinguished senator, to state, that those, and similar records, are the *only* sources from which he has taken the speeches now given to the public.

SPEECH OF MR. GRATTAN,

IN THE

DEBATE ON NATIONAL ECONOMY.

PREFATORY OBSERVATIONS.

On the 9th of February, 1786, Mr. Thomas Connolly, of Castletown, the first Irish Commoner, brought forward the two following most important resolutions:

The first resolution—"That this House did, in the last session, grant certain new taxes, estimated at 140,000*l.* per annum, for the purpose of putting an end to the accumulation of debt."

The second—"That should the said taxes be continued, it is absolutely necessary that the expenses of the nation should be confined to the annual income."

Few questions were ever discussed in the Irish parliament, on which its character so much depended, as those very important resolutions submitted by Mr. Connolly to its consideration.

In the session of 1785, hopes were held out to the nation, that such an arrangement would be grounded upon the celebrated *eleven* Commercial Propositions, as would enable it to bear the burden of increased taxation with ease and convenience—that trade would be so extended—the resources of the country so enlarged—its condition in every respect so ameliorated—the additional taxation of 140,000*l.* per annum would, without distressing the people, have the happy effect of *equalizing* the expenses of the nation to its revenues.—The eleven propositions, which had so elevated the hopes of Ireland, had equally alarmed the jealousy and intolerance of the English merchants; and an universal clamour having been raised against them by ignorance and political intrigue, the minister was obliged to abandon a system which promised so much immediate relief to Ireland, and such certain, though more remote, advantages to England.—In the place of

those eleven propositions, of which all parties approved—which gave satisfaction to the boldest asserter of Irish freedom, the minister of England was compelled to substitute *one* which calmed and appeased the irritated feelings of Englishmen, while it outraged and insulted the pride and independence of Ireland.—This plan of commercial adjustment, agreed to by the British parliament, was sent over to Ireland for adoption or rejection by the parliament of the latter;—this parliament, after a most able discussion of its merits, and an unparalleled display of eloquence by the patriots of that day, rejected the twenty propositions, which contained this *new* system, with indignation and contempt.

The same incapacity to bear heavy taxation existed in 1786, as was experienced in 1784; and the opposition, at the head of which stood Mr. Connolly, conceived that half the promised advantages of increased trade, flowing from the operation of the original eleven propositions, could not be realized; that the next duty of parliament should be,to economise the public expenditure as much as possible, thereby to compensate, in some degree, the loss of trade, and to enable the nation to bear up against the additional taxation, which had been granted in the hope of its enjoyment.—In the last session of the Irish parliament, a resolution passed, containing the principle, "that the annual revenue ought to be *equalized* to the annual expenditure—a principle *ruinous* to the commercial and landed interest, unless followed up by the reciprocal principle, "that the annual expenditure ought to be *confined* to the annual revenue;" thus making the obligation *mutual* on the minister and the country.—To meet this principle, Mr. Connolly proposed his second resolution. The secretary and chancellor of the exchequer complained, that the object of the resolution was to bind up the hands of government—to disable them from providing against any emergencies which might happen to arise—it deprived the crown of that degree of discretion with which the constitution had invested it, and which is necessary for the safety and honour of administration—it enjoined, *that* in all times, and under all circumstances, whether of foreign attack or of domestic disturbance—whether the revenue should rise or fall—*that* in all events the crown should be bound, by the admonition of parliament, not to exceed the annual income of the *nation.—This,* say the opponents of the resolution, never was attempted by the parliament of England—that, on the contrary

from 1774 to 1780, session after session, the minister had a vote of credit of one million, to enable him to provide for such emergencies—*that* by such vote the English minister was enabled to send to Ireland a great sum of money, to provide for her unforeseen emergencies, and at a period too, when the Irish exchequer was exhausted—*that* such a resolution tied up the hands of government from giving bounties to encourage industry, and to promote the prosperity of the country—*that* a government which could not be trusted, or whose power the parliament would be obliged to circumscribe with such a resolution, should not be suffered to exist—*that* the resolution (according to the special pleaders for the crown) was an imperfect one—*that* it was so worded, as to give to any administration the opportunity of rendering it nugatory and inefficient—for, says the minister, examine the wording—"So long as the taxes of *last* year shall be continued, the expenses of the nation shall not exceed the revenue."—"What is the necessary deduction?" exclaimed lord Clare.—"Why, so soon as one of those taxes shall be withdrawn, the government may set off in the old career of profusion and extravagance—give us up the new taxes, and you may accumulate debt as fast as you please." To this reasoning, impertinent and sophistical as it must appear to every reflecting mind, Mr. Grattan replied, with his usual logical precision, and peculiar sagacity;—to the specious and wily quibbles of the special pleader, we see him oppose the integrity and wisdom of the statesman.—The profusion and extravagance, which it was the object of Mr. Connolly's motion to prevent, and which Mr. Grattan told the nation would follow from its rejection, soon after deluged every branch of the administration, and generated that fatal corruption and debility, which terminated in the destruction of the independent spirit of the landed interest, and the necessary extinction of Irish freedom.

Mr. Grattan spoke to the following effect:

"*Mr. Speaker*—Sir, the motion before you is very near a self-evident proposition—that a nation, after a great exertion to raise her revenues, ought not to exceed them.—I differ from these gentlemen who deny that the new taxes were granted in consideration of commercial advantages; commerce was held forth the last session as one of the compensations; to stop the progress

of debt, was the other; but if any man doubts whether commercial advantages were in contemplation of the new taxes, look to the eleven resolutions, and let the record determine; there you will find the resolution for the taxes a part of the new system of commerce; the new taxes there evidently appear to have been asked on the credit of new commercial advantages, which were supposed likely to generate a new ability to bear them; and as a further inducement, these taxes were also recommended by the stipulation of putting a stop to the further accumulation of debt.

"Here, then, were held out two compensations—trade and economy: neither were to exist in promise, but both were to form part of your laws. Accordingly, by the eleventh proposition, the surplus of hereditary revenue was to make up home deficiency, before it could be applied to the navy of Great Britain; and the English minister could not obtain Irish money, unless he became an Irish economist!—Here was a self-operative principle of economy established, not in confidence, but in law; this was the idea of the resolutions; and even the commercial bill, which does in some measure betray that idea, does stipulate for economy, and provides that this house should in future proceed by estimate; and that when government exceeded, the excess should fall on the English fund. Thus the new taxes were to be accompanied with two compensations, trade and economy; the first compensation is withdrawn. I do not inquire now whether the bill of the right honourable member was good or bad. I continue to think it execrable—but certainly it was not the condition held out, or the trade that was offered in the original propositions. You have lost one compensation—the trade; and the question is now, whether you will lose the other—economy? When gentlemen agreed to the first resolution this night proposed, that it was necessary to stop the further accumulation of debt, I suppose them to have been sincere; that they meant it not as a vile excuse for granting new taxes, but as the principle of the grant. I enter into the spirit of that principle, and affirm that the best method of securing its operation is to vote the second resolution. For the mere and unqualified increase of taxes, does not prevent, but rather encourages, the growth of debt, for it encourages the growth of expense; it is an amnesty to past, and a spur to future profusion; as if a father should say to his son—I will pay all your extravagance, by way of discouragement. This general obser-

vation applies to this country with peculiar force, because in this country there are peculiar causes of extravagance.

"You have two administrations, that of Ireland, and that of Great Britain; and of course a double patronage, and a two-fold authority to load your establishment: moreover, you have no appropriation of funds in Ireland, as there is in Great Britain; and not having a special, you should surely have a general limitation;—again, we have no Irish cabinet—individuals may de precate, may dissuade, but they cannot enforce their principles—there is no embodied authority in Ireland.

"Again, your government constantly fluctuates; your viceroys change every day—men of different parties and different principles, faithful to private engagement, but not bound to any uniform public system; again, you have no decided responsibility in Ireland—the objects of your inquest might not be easily found, in short, you have in this country the misfortune of a double administration, a double importunity, a fluctuating government, and a fugacious responsibility.

"But, if you have any doubt, whether under these particular circumstances, the mere supply or growth of tax will prevent the growth of debt, turn to history.—I have heard of a nation in a situation similar to yours at this very period; a nation, who, wearied and exhausted by a disgraceful accumulation of debt in profound peace, determined to put an end to the pernicious practice, paid off all her arrears, and raised her taxes to the estimate of her expenses; but forgot one precaution, the precaution of checking the growth of expense, as one essential means of stopping the further accumulation of debt.—Behold the consequence! In eleven years she doubled her debt, and multiplied all her expenses.—You are that nation.—You did, in 1773, agree to put an end to the pernicious practice of running in debt; you paid off five half years' arrears to answer that end; you raised your taxes above 100,000*l.* a year to answer that end, and you took the minister's word for the further securing that object; and accordingly, you have since that time doubled your debt; and you have, besides, borrowed above 700,000*l.* in life annuities, and you have likewise added more to your expenses than the estimated amount of the new taxes.

"Figures are irksome to this house—I shall therefore present you with a picture of your race of expense; behold the map

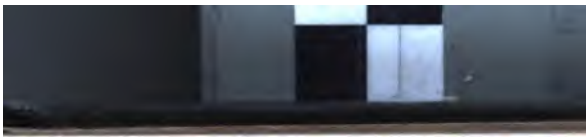
of your policy delineated by a very ingenious man, with talents and accuracy.

"See the chart of your credit; an evanescent speck just rising above the plane of the horizon, and then it drops; while your debt ascends like a pyramid, with an audacious defalcation, and almost culminates in your meridian.—Midway of this mountain of debt, you will discern a line marking your effort to put an end to the practice of running in debt.—It is not necesary for a man to read, it is sufficient for him to see, in order to refute the honourable and right honourable gentlemen on this subject.

"From this experience then, as well as from general principles, I would infer, that if you mean to stop the growth of debt, it is necessary to stop the growth of expense. It has been said, this is making a covenant with government to live within its income. I say it is so; and I add, that a nation giving to her government 140,000*l.* new taxes, has a right to insist on such a covenant.—Talk as you please, she approaches you, on this occasion, with the authority and superiority of a creditor and benefactor—she is not reduced to supplicate, but warranted to demand economy.

"Government made her own estimate of revenue and of expense; the nation left both to her discretion—say what you want, and you shall have it; but when you have got it, live upon it;—the commercial interest of this country is to be advanced; let us on that encouragement meet at once our domestic difficulties—a generous country pardons past profusion—come to an account with her—state your wants, and state your taxes. This was the idea of the parliament; and the question now is, whether government is to be limited by all the revenues she held to be sufficient for all the expenses she held to be necessary; in short, whether in ordinary years, there shall be, in the kingdom of Ireland, any such thing as limitation at all, in the management of the public purse? To so plain a principle of political salvation, to a principle so particularly applicable to a nation, governed by viceroys from another country—a principle rendered so necessary by the habits of importunity—a principle enforced by the experience of every year's debt, and admitted by the inward conviction of every man who hears me, what objection is made? What bar can you suppose is advanced? Would you believe it? Could any man conceive it? The objection is, that no one lord *lieutenant can bind* or answer for his successors! Here is ad-

mitted that very jargon, that very disarrangement of council, that very irresponsibility of government, which we all lament, and on which gentlemen on the other side reply, and demand of you, for that very reason, to entrust the purse of the public to the faith of this discordancy of succession. We are not to impose restrictions by parliament, because we cannot rely on the continuance or uniformity of the councils of government. To private engagements, however expensive, faithful indeed! but with regard to public maxims, transient! Here is their argument! The infirmity of our situation, which should induce your caution, is gravely urged as the infallible argument against your interferency. Strange as this argument is, it yields in extravagance to another grave objection, which immediately followed it; an objection which affirmed that you ought not to limit your government in its income, because its expenses must rise. The very evil itself—the thing we dread! We fear their expenses will rise—we fear the increase of your taxes will encourage those expenses—we apprehend that government will not meet us half way, so that economy on their side, may aid the new grants on your's, and secure us against the growth of future taxes, and future debts. To quiet these fears, we are told, in perfect seriousness, that our expenses must increase.—You need not be afraid, you may be certain of the danger.—This argument, which threatened us with an increase of our expense, is attended with another, which threatens with the decrease of our revenue. What a strange image must those gentlemen have of the possible state of this country! And what a much more strange provision do they make for such a conjuncture! Your expenses must increase, and your revenue may fail; and in contemplation of such an event, you ought not to limit your expenditure to your income. Eventful inability is urged as an argument against restraining the growth of your incumbrances, and the possible diminution of your expense. However, sir, this prophecy, I imagine, has but little foundation; no more than the argument gentlemen construct upon it: the revenue of this country must rise.—You have taken care of that by your new grants—the wealth of this country must increase—nothing can prevent the growth of her riches, but the growth of her taxes. I would ask those gentlemen, who omen the decrease of your revenues, was it not themselves who made the estimates, both of revenues and expenses? And when



pressed to limit themselves to their own estimates, do they not now gravely tell us, that you cannot depend on either. It seems they rest the strength of their argument on the ruins of the credit of their estimates, in direct contradiction to this argument. But in opposition to this resolution, the same gentlemen, with the same conviction, affirm that the wealth of this country will increase most exceedingly. Here the prospect changes, for the sake of the argument; and instead of a declining, you are represented as a prosperous and rising state; your manufactures are to increase most exceedingly; but then your bounties are to increase also, and your revenues, by such a deduct are to fall. Gentlemen won't see that the increase of manufactures, the increase of export and of wealth, must have a general operation; and if they add to the charge of your bounties, must in a much greater proportion add to revenues. No, no, say gentlemen; the increase of manufactures, the general sale of their goods at home, and a thriving export, are the natural causes of the ruin of the revenue. It seems in Ireland the revenues are destroyed by the wealth of the nation. From a position at once so ignorant and so ludicrous, gentlemen proceed to their great hold, the main strength of their cause, and exclaim, What! limit government to its income the very year in which his majesty's ministers have not applied for a vote of credit!—I meet the strength of their argument. I say, yes, this very year. I wave the advantage I possess in the general principle, that in ordinary years the state should be restrained by its own estimates of expense and revenue. I wave the additional advantage I have in the application of this principle to the particular circumstances, habits, and dispositions of this country. I wave also the other sad advantage which my argument has in the experimental knowledge of the progress of your expense. I meet the gentlemen in the strength of their argument, and say that we ought to limit the growth of expense this very year in which you have not been called upon for a vote of credit.—Yes, this very year, when we have granted above 140,000*l* on no compensation but the hope to stop the growth of debt and expense. This very year, in which we buy economy by our taxes, or get nothing. This very year, in which we perceive symptoms of departing from that economy. See your accounts. On a comparative view of the estimates for 1786, with the expenses for 1784, your civil list has increased above

23,000*l.* per annum; your military list has increased about 80,000*l.* and your concordatum exceeding above 12,000*l.* Without a wish to criminate, (for a question of this sort is too high either for reflection or panegyric,) I ask, are not these symptoms sufficient to induce this house, when it continues the new grants, in order to stop the growth of debt, to take some precaution to check the career of expense; the danger of adding to the pension list, of adding to the salaries of officers, and of such unavailing, heedless, and improvident donations? In the course of this debate, we are reminded and checked by another argument, that exclaims, your bounties! your bounties!' parliamentary grants, your public jobs, these are a great cause of the growth of your debt and increase of your expenses, as if the public was eased, because the government was not the only hand that heaped burden upon her back. What, are there then so many different causes? so many pretences all combining to increase our expenses? From hence I argue for, and the gentlemen against, a resolution of restraint; the complication of disorders, it seems, to them, is a reason against the remedy.

"I admire the unfeigned zeal with which those gentlemen espouse the cause of the manufacturers; but I cannot forget their discretion, when they, at the opening of the session, limited the sum to be granted to them, by a resolution which had restrained your grant, and precluded all manufactures which had not the last year partaken of the bounty. When these manufacturers, the objects of their compassion, are under your consideration, with great discretion and jealousy they discern the necessity of putting some limits, by resolution, to that species of bounty; but when afterwards the same rule is proposed to be applied to themselves, when it is proposed to limit the expense of government, no, say the friends of ministers, don't impose on us such a rule, or the absolute necessity of living within income—pity the poor manufacturers—have some regard to the infant state of your country—don't preclude those various meritorious claimants, (whom they themselves have precluded already.)

"Sir, that principle which Government applied to manufacturers, I would apply to themselves. I would have the obligation of economy to run along with the new grants; I would have it the preamble of the bill, and the annual condition of its renewal, that the secretary might carry in his pocket the condition of the

grant as an answer to solicitation; that he might say to the importunate—Sir, you have claims—your reliance on our economy gives you just pretensions to expect public money, but our hands are bound—here is the act of parliament. This would save the right honourable gentleman the fear of offending, and the trouble of thinking.—Sir, in the course of these objections, gentlemen have not forgotten to insist on the possibility of unforeseen exigencies, as a reason against an obligation on the Irish minister, in ordinary years, to confine himself to his own estimate of expense and revenue. I believe the English constitution does not warrant the objection—extraordinary emergencies (another word for reasons of state) should not be set up as a pretence for extraordinary powers in the crown. This principle is peculiarly applicable to the case of money; therefore it was that ship-money was held illegal, though it was insisted that the crown should have a power of levying money in great emergency; the same principle which condemns the practice of unforeseen emergency, in support of a latitude to lay the foundation of taxes without the consent of parliament, by the reserved power of exceeding income.

"Sir, this objection of unforeseen emergencies is peculiarly unseasonable now, because it happens to be falsified by his majesty's speech from the throne, which felicitates his people on the prospect of complete tranquillity. Had gentlemen reason to apprehend any danger, foreign or domestic, war or rebellion, I suppose they would have taken some precautions; but I ask, what is there, in the general complexion of the times—what is there, in your sequestered situation, to justify this pretence of unforeseen emergency?—this affectation of state mystery? A latitude not for exertion, but expense. What wars have you to wage? What enemies have you to overwhelm? Against whom do you point the thunder of your arms? No, no, your emergencies are of a different kind—the gentle solicitation, the fond importunity, and the kind reply on the subject of public money. These are your wars, these are your emergencies. Who would have imagined to have seen, in the course of this debate, that faded cockade of the Castle, *confidence*, advanced on the side of the court—confidence in the Irish minister in the uncontrolled expenditure of Irish money?—What, after all your experience, to *prefer confidence* to this resolution, requires, in my opinion, a

most robust conscience and a most infirm understanding. Desirous as we all are to pay every respect, and with every predilection in favour of our present viceroy, a young man of a very noble unsuspicious nature, exposed perhaps to much importunity: yet who can answer for his continuance? This confidence, then, must extend to all his successors, whoever they be, of whatever cast, party, principle, or capacity—but even that won't do. This confidence must extend to all the secretaries of all the future lord lieutenants. In the last seven years we had seven lord lieutenants and eight secretaries. The confidence must then be extended to the lords and commons of Great Britain, or rather to the king's commission, on a pure and perfect persuasion, that whom the king shall appoint, the Lord illuminates; and where the purse is bestowed, there is the virtue and there is the economy.—This will not do; it is not sufficient that viceroys should be gods—Irishmen must be angels, and importunity and solicitation cease; and in that event I submit to the force of the argument of confidence, as something not according to reason, but above it.

"I have troubled you long; but before I sit down I must observe, that the success of your manufactures is much interested in this motion. Gentlemen are not to be informed, that the great commercial resources which Ireland possesses is not capital, but a comparative exemption from the weight of taxes. The increase of your expenses must operate therefore as a diminution of your commercial resources, and not only increase the undue influence of the British minister in the Irish parliament, but hinder the competition of the Irish manufacturer in his own market. The nature of the new taxes tends the rather to excite the apprehension, because some of these taxes are registers; taxes on licences to sell leather, soap, candles, &c. being in themselves of very small product, I fear them as a key to a more general taxation, and the more earnestly do I wish, therefore to stop the growth of expense. I think this is a good opportunity; for I think the new grants give you a right to insist on establishing a great principle of economy. When we make new grants, let us make points for Ireland; and while we are are generous to the crown, let us pay some attention to the interest of the people. Do not let any man suppose that the point of stopping the further accumulation of debt is gained already, because you are not called on for a loan for 1786; the reason being, that you borrowed

200,000*l.* in 1785, and that you got one half year's produce of the new taxes. I make no doubt that the resolution, though rejected to-night, will have a good effect. The principle must be carried. Government must at least live within its income; but then it is to such exertions, and to the urging such resolutions, you must attribute such an event."

The principle of the first resolution moved by Mr. Connolly, being unequivocally admitted by the Chancellor of the Exchequer, was unanimously agreed to.

The question being put on the second resolution, there appeared,—Ayes—73—Noes—149.

SPEECH OF MR. GRATTAN,

IN THE

DEBATE ON PENSIONS.

PREFATORY OBSERVATIONS.

On the 20th February, 1786, Mr. Forbes moved for leave to bring in a bill "to prevent persons holding places or pensions under the crown from sitting or voting in the House of Commons." It is impossible to make mention of the name of this venerated and beloved friend of Irish independence, without recording our acknowledgment of the great and important services which he has rendered his country;—indefatigable in the performance of his legislative duties—gifted with great talents, and possessed of extensive information—he always enlightened his audience on every subject he discussed, and often successfully communicated to his countrymen a portion of that spirit which animated and directed his judgment in debate.

Mr. Grattan, in his celebrated letter to lord Clare, in the year 1800, thus speaks of this distinguished Irish senator:

"Mr. Forbes—a name I shall ever regard, and a death I shall ever deplore; enlightened, sensible, laborious, and useful—proud in poverty, and patriotic—he preferred exile to apostacy, and met his death.—I speak of the dead—I say nothing of the living, but that I attribute to this constellation of men, in a great measure, the privileges of your country; and I attribute such a generation to the residence of your parliament." Even such a man as Mr. Forbes, thus described by him who best knew his merits, and to whose superiority every Irishman with whom he acted bore equal testimony, could not escape the deluge of calumny, which swept away every man and every principle that was good or valuable in our island.—The slaughter of such characters was essential to the completion of the grand, though remote object of putting down the country: and every corrupt hand which could wield a quill, was engaged in the honourable

service of defaming and traducing our Forbes's, our Daly's, our Flood's, and our Burgh's;—their names, however, now live in the hearts of the people they instructed and protected, while their calumniators are forgotten, or remembered *only* to be execrated.

"Irishmen of the present day," says our admired orator—"may go to the graves of these honourable dead men—they may raise up their tomb-stones, as their calumniators threw them down;—they will feel it more instructive to converse with the ashes of the one, than with the *compositions* of the other."

On the 6th March, 1786, Mr. Forbes moved the house to resolve, "That the present application and amount of pensions on the civil establishment, are a grievance to the nation, and demand redress."

On the discussion of this motion, it appeared, that in the year 1757, the annual charge of pensions was only 45,000*l.* per annum; and that, in that year a resolution passed the house, to the following effect, "That paying so great a sum in pensions, was an imprudent disposition of the public revenue, and a grievance which ought to be redressed."

In 1785, the pension list amounted to 95,000*l.* which exceeded the whole amount of the civil establishment.

From 1757 to 1785, every establishment, civil and military, greatly increased—the patronage of the crown was extended, and the national debt amounted to more than two millions.—The pension list of Ireland exceeded that of England.—The commerce—the revenue, and the resources of the former, bore no competition with those of the latter.—"It was idle, therefore," said Mr. Forbes, "to talk of the independence of the Irish parliament, whose members received wages from the crown." On this debate, Mr. Grattan made the memorable declaration, which seemed to have given such pain to the delicate feelings of ministers:—"Should I affirm," said Mr. Grattan, "that the pension list is not a grievance, I should affirm, in the face of my country, an impudent, insolent, and a public lie!" This motion, so essential to the purity and independence of parliament, was lost.—On this occasion, Mr. Grattan occupied the attention of the house but for a short time.

On the 13th March, Mr. Forbes presented his bill, to limit the amount of pensions, which was received, and read a first time;

and on a motion being made, that the bill be read a second time, on the succeeding night, Mr. Curran, (now master of the Rolls) distinguished himself in an eminent degree, by a display of that sarcastic wit, and a happy exertion of that fancy, which fascinated every hearer, captivated the attention, and excited the admiration of every party, on either side of the house. The speech he delivered on this occasion, appearing to the editors, to be faithfully and correctly reported, they would feel it an act of great injustice to that celebrated orator, and inflexible Irishman, to deny to the readers of this volume, the pleasure which they have experienced in the perusal of one of the happiest efforts of that caustic humour, which consumed, while it enlightened, and planted a thorn in the bosom of the administration, which could not refuse their admiration of its powers.

On this very interesting question, Mr. Curran addressed the chair. (*See p. 73, ante.*)

Mr. Grattan now rose, and spoke as follows:

"Sir, the gentlemen who have urged the most plausible argument against the bill, have not taken the trouble to read it. They say, that it gives up the control of parliament over such pensions as shall not exceed the limits of the bill. No such thing—your control cannot be given up without express words; but here there are express words to save it: here, aware of such a pretence, and that no colour should be given for such an objection, the preamble states the nature of the pensions which are to have any existence at all, "such as are allowed by parliament." This objection being answered by the bill, I must advert to another, which has nothing to say to the bill.

"A right honorable member has declared the bill to be the most exceptionable that ever came into parliament; and his reason for this most extraordinary declaration is most singular indeed, "because it restrains the ministers of the crown, and leaves the pension list open to both houses of parliament."—From thence he infers that a practice of profusion will ensue, and from hence you would infer that the pension list was not now open to the addresses of both or either of the houses of parliament; but the fact is, that the evil he deprecates, now exists: that the bill does not give, but finds and leaves a power to both houses of parliament to address on such subjects. As the matter

now stands, both or either of the houses of parliament may address for such charges, and the minister may also impose such charges with such addresses. You are thus exposed to the two causes of expense, the power of address in us, and the unlimited power of pensioning without address in the minister; and the right honorable thinks you will increase profusion by removing one of its causes;—the principal cause—the notorious cause—the unlimited power of the minister, the most constant, operative and plentiful source of prodigality. In the same argument he adds, that the power of parliament, in disposing of the public money, ruined this country, when there was a redundancy in the treasury, by serving the purposes of jobbing aristocracy. According to him, then, the greatest evils which can befal this country are a surplus in the treasury, and a restraint on the prodigality of the minister.—A prosperity which produces redundancy, and a constitutional bill which restrains the unlimited grants of the crown, is his receipt for the ruin of Ireland. In the course of this argument my right honorable friend has spoken of economy. Sir, a friend of mine the other night moved a resolution on the principle of economy, "that your expense should not exceed your income;" his motion was founded on an obvious maxim, that in ordinary years a government should be restrained by its own estimate of expense and revenue; his motion was rejected on two idle arguments:—That unforeseen emergencies might arise, was one argument; but neither the complexion nor situation of the times warranted the apprehension of danger, and therefore the argument, if it had no corruption in contemplation, was fictitious and idle. The other argument against my friend's motion was, that the maxims of economy were adopted already by the present administration.—On what foundation, fact, or authority, such an argument was advanced, the catalogue of pensions can best determine. Those pensions are not words, but facts. I always conceived that the public treasure was, like the people's liberty, to be guarded rather by law than confidence; and I thought the new taxes a good opportunity for establishing such a safeguard. I thought that such a confidence, without such a safeguard, would encourage administration at last into acts of profusion; but I could not think the act of profusion would accompany the professions of economy and the grants of the people. I could not foresee that peculation would attend the birth of the tax. I will

consider this peculation, or the new catalogue of pensions, and then the bill—first the grievance, then the remedy.

"See how this grievance will naturally affect the people: they will, perhaps, be inclined to think that they see in such a measure the old school revived—the old spirit of plunder renewed, when government in Ireland was nothing but the division of spoil.—They will remember that they have given new taxes, and that they have not received the commerce which was, I say, promised, or the economy which was professed; in short, they will see that you have gotten their money, and have given them, as compensation, a new list of pensions.

"See how this grievance may affect the British government: when the British minister sees that he has incurred the odium of the new taxes, and of their misapplication, he will naturally expect that his influence, at least, is augmented; but when he finds that he has added nothing to his power, he will lament this attack on his credit. The British government will recollect, that to remove the causes of discontent and jealousy in Ireland, Great Britain surrendered her assumed supremacy. Perhaps that government will not think itself well used in the present attempt to revive Irish jealousy, by the unnecessary peculation of their servants in Ireland.

"See again how this grievance affects the Irish ministry. Why give Ireland a grievance, for no object on earth, but to lessen the credit of the Irish government? Gentlemen speak of reflection—that catalogue is the reflection.—You cannot conceal, nor justify, nor extenuate: your connivance would be aggravation. The name of his excellency has been introduced to sway debate; his friends come in too late to serve him on this subject; they should have dissuaded him from giving the offence; they should have told his excellency, that his list of pensioners would be prejudicial to his fame, and was unnecessary to his support; that the profit went to others, and the scandal to the government.

"While I protest against this measure, as a most disinterested act of profusion on the part of government, and therefore as an act of the most superlative folly, yet will I say more of his grace, the Duke of Rutland; more than his own servants have said of him; they have said of him on this subject, what is ever said, *that he is a lord lieutenant in the right*; I say he is an honest man in the wrong, which is better.

"Having stated the grievance, as far as affects the three interests concerned, I shall consider the defence; and first, it is advanced, that the pension list of Ireland is comparatively small—small, if you compare it to the royal establishments of England, or other countries.

"I directly controvert that position; it is comparatively great; for it is this moment equal to the pension list of Great Britain; compare it to your hereditary revenue, and it is above one third of the net produce of that revenue; and in the course of thirty years it has increased more than double.—Another argument advanced in its defence tells you, that the new pension list, or the last catalogue is small; sir, it is greater than the produce of your new tax on hawkers and pedlars. Why continue that tax? Because government could not spare it. Why waste that tax? When I see the state repose itself on beggars, I pity and submit. But when I see the state give away its taxes thus eviscerated from the poor; when I see government come to the poor man's hovel for a part of his loaf to scatter it; when I see government tax the pedlar to pamper the pensioner, I blush for the extortion of the state, and reprobate an offence, that may be well called prodigality of rapine.

"Sir, when gentlemen say, that the new charge for pensions is small, let me assure them they need not be alarmed; the charge will be much greater; for, unless your interposition should deter, what else is there to check it?—will public poverty? No. New taxes? No.—Gratitude for those taxes? No.—Principle? No.—Profession? No.—The love of fame, or sense of infamy? No.—Confined to no one description of merit, or want of character, under the authority of that list, every man, woman, and child in Ireland, have pretensions to become a public incumbrance; so that since government went so far, I marvel that they have stopped, unless the pen fell out of their hand from fatigue, for it could not be from principle.

"No, sir, this list will go on; it will go on till the merchant shall feel it; until the manufacturer shall feel it; until the pension list shall take into its own hand the keys of taxation; and instead of taxing license to sell, shall tax the article and manufacture itself until we shall lose our great commercial resource, a comparative exemption from taxes, the gift of our poverty, and get an accumulation of taxes to be the companion of our poverty;

until public indignation shall cry shame upon us, and the morality of a serious and offended community shall call out for the interposition of law.

"As a further defence of this grievance, it is said that the House of Commons have, from time to time, addressed for pensions, and contributed to the incumbrance.—If those addresses were improper, government was guilty of covin, in not opposing the addresses in parliament; and the argument then proposes an emulation of reciprocal expense, and the exhortation to mutual rapine.—If, on the other hand, these addresses were proper, the argument amounts to this—that there are many necessary charges on the pension list, therefore there should be more that are unnecessary; and the greater the public charge on the revenues, the greater should be the misapplication. In the same spirit gentlemen have relied on bounties, and the scrambling committee. The fact, however, is, that the corn bounty is greatly diminished, and the scrambling committee is extinct; but suppose the fact to be otherwise, what is the argument, but a proposal to parliament to have the nation a victim to jobs on the one hand, and to pensions on the other.

"In defence of this incumbrance it is further advanced, that old quality should be supported.—Admitted.—I have no personal dislike to any individual of the new catalogue.

"I have for some great respect and love. The first name did honour to the chair, and is an honour to the parliament that provides for him. As to old quality, why not bring back the great Irish offices now in the hands of absentees, and give old quality great places instead of little pensions!—Again, why the one under that description considered so late, and the other so little? But is the merit of four or five of this catalogue the qualification of nineteen; unless qualification, like the plague, is caught by contagion.

Sir, in so very numerous a list, it is almost impossible that some meritorious persons should not have been obtruded; and yet in so numerous a list, it is astonishing there should be so few of that description. One pension of that description I well remember, it suggests to me other considerations than those which such a list would naturally inspire—I mean the pension to the family of the late chief baron.—I moved for that pension; I did it from a natural and instinctive feeling: I came to this house from his

hearse. What concern first suggested, reason afterwards confirmed. Do I lament that pension? Yes;—because in it I lament the mortality of noble emulation—of delightful various endowments—and above all, because I feel the absence of him who, if now here, would have inspired this debate, would have asserted your privileges, exposed the false pretences of prerogative, and have added one angelic voice to the councils of the nation.

"Having considered the pension list as a grievance, I shall now trouble you with some observations on the remedy, namely, the bill which my friend proposes on the spur of the present expense, grounding himself on the example of England. In opposition to this bill, some gentlemen of this house have come forth in the rusty armour of old prerogative, and have stated this attempt to reform abuses by bill, as an invasion of the sacred rights of the crown.—Sir, I apprehend that parliament may, and ought to remedy abuses, even though they are not in themselves illegal. On this principle it was that the judges' bill was passed; on this principle the habeas corpus bill in Ireland was passed; and on this principle many of the best laws in England have passed. Abuses which obtain under colour of law, are best rectified in parliament.

"When the commons of England had returned to their house, from a decisive answer given by Charles I. to the petition of right, they began to consider the state of the nation in all the various management of the king's prerogative; a message was delivered through the speaker, from the king, to admonish them not to cast reflections on his government, or to enter into the affairs of the state. Sir Edward Coke observed, on that message: "It is the business of this house to moderate the king's prerogative. Nothing which reacheth to abuse, that may not be treated of here." This principle is particularly applicable to cases of money, over which you, by special privilege, preside; and still more applicable to cases of your own revenues, because they are appropriated. A right honourable member has contradicted this; he says, that however the new customs and excise may be appropriated, yet that the old customs are under no appropriation whatsoever; and he says further, that formerly the king had a right to them by common law; and he states that they amount to 200,000*l.* per annum; but the right honourable mem-

ber is not warranted, either by the laws or constitution of his country, in the doctrine which he has ventured to advance.—Charles I. thought, indeed, like the right honourable member, that the king was entitled to tonnage and poundage by common law; but the parliament of England differed from both, and resolved such levies to be illegal, and the persons who, thinking like the member, had been concerned therein, to be delinquents. Nay, the old customs to the king makes an exception; and the qualification of a grant in any degree, usually bespeaks the poverty of the granter; the member therefore seems not to have adverted sufficiently either to the statute law or the constitution of his country. The statute of Charles II. which grants the new customs, and which also the member does not appear entirely to understand, seems to consolidate the new and old customs, and appropriate both to one and the same purpose.—After reciting the old grant, and establishing a common book of rates, it says,—"And for the better guarding and defending of the seas,"—and then it proceeds to grant the new customs: the words "better guarding and defending of the seas," bespeak the appropriation both to one and the same purpose, and is a term of connection between the old and new customs, making them a common fund for the defence of the seas.—But I might yield all this—I might allow that the hereditary revenue is not appropriated—that the act of customs does not mean the guarding the seas, nor the act of excise the pay of the army. Yet is the hereditary revenue the estate of the nation, of which the first magistrate is but a trustee for public purposes. It is not the private property of the king, but the public revenue, and any diversion thereof is a crime. The great Duke of Buckingham was impeached for such a crime; one article of his impeachment was the grant of several pensions to himself and his friends out of the revenue, and one criminal pension in the schedule, was a charge on the old customs of Ireland. At an earlier period the Duke of Suffolk was impeached, and one charge was the grant of pensions to himself and his friends. At an earlier period, in the reign of Richard II. an Earl of Oxford was impeached for grants to himself and his friends; the crime is called interception of subsidy; whereby the realm was left undefended, and grants like yours for the defence thereof, wasted on individuals, while the people were doubly taxed, as you are, to make up the wanton deficiency.

"Thus does it appear, that in cases concerning pensions by prerogative, the commons have interfered; though prerogative in those cases might plead that the revenues out of which these grants arose, were wholly appropriated; but a public grant appropriates itself to the public use; and the parliament that proceeds either to punish or control the diversion thereof, does not invade the prerogative of the crown, but exercises the privilege of the commons, in guarding the inheritance of the nation. In reforming such abuses, you may proceed in your inquisitorial capacity, as the greatest inquest of the nation, by impeachment, or in your legislative capacity, by bill; the latter is the milder method—my friend adopts it; and proceeds rather to reform than to punish. You tell him that we have submitted to this grievance for a long time. It is true; but a course of toleration and impunity, neither constitute innocence, nor draws out the sting of a grievance; it is true, you have submitted to this grievance for a long time. Hence the many erroneous arguments of this night. The public inheritance has been so diverted to private purposes, by a series of ministers, that we have forgotten the proprietor in the misapplication of the property, and talk of the estate, as of the private patrimony of the king—Hence these prerogatives of rapine! these rights of plunder! the authority of the king to be robbed by his own servants of the common stock!—Hence it is, that gentlemen have set up the shadow of prerogative as a centinel to public robbery.

"When gentlemen call this bill an attack on the prerogative of the crown, they are answered by the principles of the constitution; but they are also answered by a precedent of the most decisive nature; and that precedent is this very bill, which is now the law of England. By the law of England, no pensioner for years, or during pleasure, can sit in parliament; and by the law of England the amount of pensions is limited. The first law passed at the time of the Revolution, and was improved in the reign of queen Anne. The latter passed in 1782, with the entire concurrence of these very persons who now constitute this administration; and yet the argument of prerogative would have been stronger in England, because there a civil list had been granted to the king, and the subsequent limitation of pensions on that list, seemed a revocation of the powers of the grant. On what authority then, or pretence, do gentlemen call a measure which

they supported as necessary for England, an invasion of the rights of the crown, when proposed for the benefit of Ireland? What pretence have they for such partial doctrine of unequal measure? As if that was infringement in Ireland, which, in England was constitution; or, as if what was moderation in the people of England, would be in those of Ireland, arrogance and presumption.

"This leads me to another objection, on which gentlemen much relied, that this bill is an innovation—a new constitution; to admit the undue influence of the crown in parliament, and to control the excess of expense—an innovation! It is an encroachment most certainly, an encroachment on corruption, an invasion on the ancient privileges of venality; it is the old constitution encroaching and innovating on long established dishonest practices and accumulating expenses. All these expenses and practices, it seems we have already sanctified; we voted, the other night, that neither in their excess or application were they a grievance. Sir, I will not presume to censure a vote of this house, but I may be permitted to explain that vote; we could not mean, by that vote, that the present pension list was no grievance, for there was no man in debate hardy enough to make such an assertion; no man considers what that pension list is; it is the prodigality, jobbing, misapplication, and corruption of every Irish minister since 1772. To say that such a list was not, either in its excess or application, a grievance, was to declare, that since that period (that is, above half a century,) all your ministers were immaculate, or rather, indeed, that God had governed you himself, and had never sent you a minister in his anger.

"I declare I could not affirm the innocence of the list, because I should be guilty of affirming what I conceive to be false. Do gentlemen think otherwise?—Let them take their catalogue in one hand, and place on their heart the other; let them look this nation in the face, and in that posture declare, that the present Irish pension list is not, either in its excess or application, a grievance! They could not do it; they have voted what they would not say. I dissented from their vote, but I went along with their conviction."

SPEECH OF MR. GRATTAN,

ON THE

NAVIGATION ACT.

PREFATORY OBSERVATIONS.

On the 5th of March, 1787, Mr. Grattan desired to be informed what was meant by a bill, for which leave had been given the 23d of last February, under the title of "A bill for the improvement of Navigation," and whether that bill was to go farther than the registry of ships. The Attorney-general (Mr. Fitzgibbon) replied, that the intent was to insert a clause in the bill, declaratory of its being in force in this kingdom. "Then," said Mr. Grattan—"I find this bill is to enact the navigation law, a law of greatest anxiety to the British minister, a law intended to confer equal benefits, and impose equal restraints, but so considered by Britain, as to confer benefits on *herself* and *exclude* Ireland. This was a principle of the propositions, and a very old complaint—England sent plantation goods to Ireland, and refused to receive them from us, under colour and construction of one and the same law—the act of navigation. This law, it seems now, gentlemen begin to suspect is *not* valid in Ireland, and it is now proposed by them to be enacted here, subject to the hostile construction; and it is to be brought on, on Wednesday, to be passed, I suppose, with *the usual expedition.*"

On the 20th of March, the Attorney-general's new bill was debated; on which occasion, Mr. Grattan moved an amendment, which, in his opinion, went completely and effectually to prevent any future misconstruction of the navigation act, whose original principle and object was *equality of advantage* to every part of the British empire. This celebrated act (which Blackstone describes as the most beneficial statute for the trade and commerce of England) was first framed in the year of Cromwell, 1650, with a narrow partial view—being intended to mortify our Sugar

Islands, which were disaffected to the parliament, and still held out for Charles the II., by stopping the gainful trades which they then carried on with the Dutch; and, at the same time, to clip the wings of those our opulent and aspiring neighbours—this act *prohibited* all ships of foreign nations from trading with any English plantations, without *license* from the council of state. In 1651, the prohibition was extended also to the mother country, and no goods were to be suffered to be imported into England, or any of its dependencies, in any other than English bottoms, or in the ships of that European nation, of which the merchandize imported was the genuine growth or manufacture; at the restoration, the former provisions were continued, by statute 12 of Charles the II., c. 18, with this very material improvement, that the master and three-fourths of the mariners shall also be English subjects.

This act of navigation, so justly considered by Englishmen as the great cause of their commercial ascendancy over the rest of mankind, or as Sir Joseph Child describes it,—"The Charta Maritima of England,"—the creator and preserver of that navy which rides triumphant over every sea, and dictates British law in the remotest corners of the globe, had not yet become the law of Ireland. The jealousy which originally dictated this celebrated act against the enemies of England, was directed against Ireland with the same selfish spirit; and the enlightened consideration of extending to the latter, all the advantages which flowed from this unprecedented monopoly to England, never occurred to those ministers, whose object should have been a community of interest and a free interchange of benefit with every part of the British empire. This act of navigation was a law of policy and power, rather than of commerce;—a martial policy was the object of those who gave birth to it; and it appears, from an inspection of the act, that its framers intended its operation should be general throughout the British empire. The broad and expanded views of Cromwell were defeated by the narrow and contemptible cunning of commercial avarice:—for though the act of the 12th of Charles II., which is called the act of navigation, recognizes the principle of universal operation throughout the empire, yet, in three years after that period, the miserable policy of England converted it into a law of commercial restriction, by forbidding the *direct* import of the colony trade with Ireland

Thus, the liberal construction, which, from the words of the act, and the circumstances under which it was enacted, underwent various alterations in many subsequent statutes. By the navigation act—plantation goods were exportable *only* from the plantations to England, Ireland, Wales, and Berwick; but by a series of succeeding laws, (the 15th and 22d of Charles II.—the 7th and 8th of William, and 4th of George II.) all plantation goods were prohibited to be landed, from the plantations in Ireland, except a few articles, which escaped the enumeration in the act of George II, thus counteracting the original comprehensive intention of the act of navigation. To put an end to the possibility of any future misconstruction of this famous statute, which Ireland was about to adopt as the law of the land, Mr Grattan proposed the following amendment, which goes to secure all the benefits of the act, on the principle of Irish equality.

"And whereas, it is the meaning and intention of the said act, passed in England, in the 12th of king Charles II., to impose the *same restraints*, and confer *equal benefits*, on his majesty's subjects in England and in Ireland, and that both kingdoms shall be affected in the same manner."

To this amendment it was objected by ministers, that the act of Charles II., the liberality of which was so much relied upon by Mr. Grattan, had no reference whatever to the transportation of colonial goods between England and Ireland;—that the *acts of customs*, which was in force more than a century, regulated the trade—that it was impossible to *force* England to adopt a construction of the navigation act, different from that which we had hitherto obtained; that the act, as it stood, without the amendment, was a source of infinite advantage to Ireland; it gave to the latter a monopoly in favour of her shipping; it gave her admission into the English ports, on the same terms as the English themselves—it gave her the protection of the British navy.

To these objections, Mr. GRATTAN replied, with his accustomed force of argument, and brilliancy of illustration:

"Sir—From the thin and unfrequented state of these benches, one would naturally expect no business of moment. The Navigation act, now under your consideration, has been, from the earliest time, an object to Great Britain; for this she has incur-

red the jealousy of nations; to this she attributes the growth of her marine—the dominion of the sea; and she has called it, emphatically, a Great Sea Charter.

"But this act, dear as it was to her, has been in its operation as cruel to you;—hardly had the act passed, when you were inhibited, by one law, from sending European goods to the plantations. By another law your name was stricken out of the bond, and the plantations were inhibited from sending their articles to Ireland;—and, finally, by another law, you were inhibited from sending plantation goods to Great Britain; while England, who drew up your act of customs, (for the act of customs, though the measure of the Irish parliament, was drawn up in England,) forced herself into your market by a clause in that act. Here has been the construction or operation of the navigation act; a construction of monopoly and contradiction; a tyranny of power over the rules of reason; an operation of injustice, the result of which was, that Ireland was turned out of every market in the king's dominions, her own not excepted; while England construed herself into the Irish market, by an authority derived from the explanation of one and the same act, by the interpretation of which you are excluded. Thus you stood, or nearly thus, until the settlement of 1779; here the two nations came to an honourable explanation, in which the characters of both were raised, and in which, coupled with the settlement of 1782, their animosities were buried for ever, but in the settlement of 1779, we did not comprehend the channel trade, or the trade subsisting between Great Britain and Ireland, that stood on its ancient base, which was in equality; here the dregs of the provincial system remained not yet purged off; you took the manufacture of England, and the plantation goods re-exported from England, and England refused to take either from Ireland. She got the raw article from you, and you take the manufacture from her.—It was a condition that required arrangement, but was not a condition (considering the great and recent acquisitions of this country) that should have called forth the very great turbulence and impatience which attended the inauspicious discussion of the unhappy question—protecting duties! to which the above condition had given birth—protecting duties!—a question whether we should turn a vast number of articles of the English manufactures out of the Irish market, a question taken up so improperly,

so furiously agitated, and so suspiciously deserted. The madness of the times frightened the English much, but frightened every rational man in Ireland much more, and did at last damn the pretensions of those manufacturers who had just force enough to give birth to an arrangement, of which protecting duties not only did not make a part, but in which an express stipulation against them made a principal part. The equality of the re-export trade made another part. This was the system of reciprocity, but the manufacturers of England trembled at it; they had got your market already, they, therefore, were not to gain any thing by the experiment, and they were, therefore, left free to indulge in the latitude of their ancient fears and airy speculations. They contemplated the low price of labour and of provisions in Ireland;—they mistook the symptoms of poverty for the seeds of wealth;—in your raggedness they saw riches in disguise; and in destitution itself, they discovered a powerful rival to the capital, credit, and commerce of Great Britain.

"Whilst your pretensions were thus opposed by some of the English manufacturers, jealous of your poverty, they were also combated by another party, jealous of your liberty. The remnant of lord North's ministry, who had supported the minister in the fury of the American measures, but had condemned his decline, and saw the moment when a great man loses his virtues, that is, when he loses his power—that remnant who had but one idea with respect to Great Britain, Ireland, and America—coercion—coercion! From that quarter, the fourth proposition, if I am well informed, and some of the other propositions, the result of a narrow mind, a sordid circumspection, and a jealousy of the dominating genius of an individual, and of the liberties of a nation, originated. Thus was Mr. Pitt's system of reciprocity clogged with a system of coercion, and thus fell the adjustment; and since that time we have no question in the least connected with it, until a doubt has been entertained of the validity of the act of navigation. The doubt rests on two points; one is, the informal and narrow rule in the act of customs, which enacts nothing, speaks only to the lower officers of the revenue, and rather indicates a false opinion of the validity of the act of navigation in Ireland, by the authority of the British parliament, rather than a legislative confirmation of the law. Let the learned decide—I know there are some most eminent lawyers, who do not

think that rule sufficient to establish the act of navigation in point of law;—in point of conformity it has not been disputed. The other ground of doubt is Mr. Yelverton's bill; the clause in this bill is equality; it enacts such commercial and navigation laws, as import to confer the same benefits, and impose the same restrictions. Had the navigation act been unaltered, had it not been perverted from its original purpose, it would have been established by Mr. Yelverton's bill; but its inequality of operation stood in the way of its confirmation. Thus, the doubt of the validity of the act of navigation arose; the narrowness of the rule, and the honest latitude of the bill. In these circumstances a bill is introduced to establish in this country the act of navigation. I was not under error in any degree whatever with respect to the measure. I stated it to be the establishment of the act of navigation; it is so. It has been called a bill for the trade of Ireland; it is not so. It has been represented as a boon from England; it is not so.

"The act of navigation is an act of empire, not of commerce, Cromwell was no merchant; his mind was compass, power, and empire.—The navigation act is a restriction on commerce in the benefit of shipping—a restriction on the sale of things imported and exported—confining the sale and purchase to vessels and ports of a certain description. The compensation Great Britain receives, is in the carrying trade; and a doubt has arisen, whether the benefits she receives from that trade, compensate for the restraint she imposes on the sale of the commodity; but as to Ireland, there can be no doubt at all. The act of navigation is clearly a restriction without the compensation. Your trade does not receive benefit from the alien duty. The act is a clog on your plantation, and a clog on your European trade.—Does your trade receive benefit by being confined to vessels of a certain description, or a certain port? You incur the restraint on the sale, but you do not get compensation. See your tonnage of 1784: English in the Irish trade 360,000; Irish 71,000; thus the act of navigation is a restriction on commerce for shipping; a restriction on Irish commerce for British shipping; therefore the Act of Navigation is a grant to England.

"I do not hesitate to make that grant, nor do I require to be exhorted to make that grant, by a suggestion, that an act of restriction on our commerce is for the benefit of our trade. I know

we must make some sacrifices, in some instances, to the general cause. I know taxes are not commercial benefits any more than acts of navigation; but they are necessary, and therefore I do not hesitate to conform to the British act; desiring only, in order to warrant that conformity, that the conditions of the act may be effectually equal. As Irish conformity is necessary to the British empire, so is Irish equality necessary to obtain that conformity; that is the true principle that connects; it is the breath that lifts, it is the spirit that moves, and the soul that actuates; without it all is eccentricity—with it the two nations gravitate to a common centre, and fulfil their stated revolutions in the imperial orbit, by rules, regular as the laws of motion; like them infallible, and like them everlasting! Nor do you here demand an equality of which you are not a purchaser; you purchased the right to equal admission, or equal exclusion, under this act, by a long conformity to its restriction; you have given to Great Britain, for that equality, your carrying trade and your market—100,000*l.* in plantation goods—360,000 tonnage—nor do you, in fact, desire equal advantages. You do not desire the British market; but you wish to have the speculation of the British market for the chance of your own; it is not another man's estate you desire, but a small channel through your neighbour's land, that you may water your own, without the fear of inundation. The English need not tremble; their estates in the plantations articled to render the produce to Great Britain, will not break those articles. Cork will not be the emporium of the empire. Old England will remain at the head of things.—We only aspire that the little bark of this Island may attendant sail—pursue the triumph, and perchance partake some vagrant breath of all those trade-winds that waft the British empire along the tide of commerce.

"The equality we ask, is not only the birth of our condition—it is the dictate of our laws—see the act of 1782—the same benefits and the same restraints—a principle very inadequate, if applied, as the rule whereby to measure laws not yet in existence; very infirm ground whereon to pledge the faith of parliament to future adoption, but necessary for your conformity to any English act already in existence—a principle of equality is thus registered in your own statutes. The merchants who petitioned, were therefore moderate; they are men respectable as merchants, as men of sense, and men of probity—they did not desire you to re-

peal the navigation act, but they did desire that you would not re-enact it; that you would not give any new sanction or authority to the act, without establishing and securing its benefits. They spoke, like freemen, the suggestion of the laws, and demanded their right—equity, effectual equity. They spoke a principle admitted even by the two houses of the British parliament, at a time not very favourable to your liberty; the time of the propositions. The fourth proposition, inadmissible as it was, did not presume to ask of you to adopt English laws of shipping and navigation, on a principle other than that of equality. That proposition was idle enough to expect that you should pledge your faith to a future conformity to future English acts: but equality even there was admitted—even by that oppressive narrow proposition: therefore I think I have proved, that in the act under your consideration you have a right to demand equality, and I ask whether the clause sufficiently secures it? The clause recites the rule, and then enacts, and explains nothing—recites no principle, secures no principle, removes no doubt; it leaves you a verbal, not an operative equality; equality of law, but not equality of construction. In support of a clause so circumstanced, two principal arguments have been adduced; one, that the act of navigation is the law already, and the other, that it is not. As to the first, if the whole of the argument rested here, the argument and the bill would be easily disposed of.—'Tis true, the act of navigation has been complied with; the merchants, commissioners, and people, have obeyed it; the doubt must arise somewhere out of this country; and if out of this country, in some quarter appertaining to the British court; it is therefore a proposition from the British court to the Irish nation. When we are employed in discussing this proposition, and in removing the doubt the court of Britain may entertain about the existence of the act of navigation, have we forgotten that there does not exist a much more respectable and more interesting doubt about its construction? and shall we gratify the court by settling the one point, and not gratify, serve, and secure the people, by settling and securing the other?

"'The other argument, that tells you the navigation act is not the law, desires you with all speed to establish it, in order to secure your plantation trade. But has any court of justice impeached the validity of the act? Any merchant disputed it?

Any commissioner dispensed with it? There is the same conformity to the act of navigation now, which obtained in 1780, when we got the plantation trade; therefore, we are not called on to re-enact it by virtue of the covenant. Supposing that settlement to have the navigation act in contemplation, the plantation trade is confined to the British plantation, and the navigation act is co-extensive with the world; there is therefore a geographical error in the argument, supposing it to have any foundation in the fact;—but to put this defiance to issue—I ask the right honourable gentlemen on the other side, have they any authority from the British minister, to tell Ireland, that unless she shall re-enact the navigation law, England will repeal the settlement of 1780? I wait for an answer: there is no such thing.

"The plantation trade is out of the question. I congratulate you; your minds are at ease; that fear is idle. But if you were to examine the value of that trade, with the loss of which you are threatened, perhaps you would find that it is not inestimable. I allow it is of some value; I do not wish to depreciate the grants of England; you do import directly and you do export directly something, but not in any very great quantity. Whence do you get your sugar? From old England what bales of cotton manufacture or woollen manufacture have you exported directly to the plantations? Have we forgotten what we have heard on the subject of the propositions, that our plantation trade did not depend on the act of navigation, but on the issue of the second market, that is, on the equal operation of the navigation act, of the act before you? I thought gentlemen went too far when they talked down the plantation trade, as it were nothing without the market of England, without this point of construction or operation; but I am astonished that they now urge the plantation trade as an argument for adopting the act of navigation, without taking the precaution of securing that equality under the act, without which, the plantation trade, in their opinion, is inoperative. One gentleman says it is law, another it is not law; but both agree to prepossess your judgment, by exciting a false indifference or a false panic. There is another argument that comes in aid of these, which tells you, it is of no consequence whether the navigation act is or is not law; because the inequality arises from two out-standing acts of parliament; one the act of customs in Ireland, which admits British plantation goods; the

other the act of the twelfth of George III. in England, which prohibits their import from this country; and therefore he advises you to adopt the act of navigation, because there are two other acts of parliament which deprive you of its benefits. Before you pass the clause under consideration, recollect that we have not very indirectly been invited to institute an adjustment with great Britain. I am against advancing on that subject; I do not wish to make new points with England; there are some things might be better adjusted, but I would leave that adjustment to temper and to time. England now receives France and excludes Ireland. I do not believe she need be afraid of being rivalled by either; but this is a consideration for her and not for us; we have done our part; we have opened our market to England; we cannot give our constitution if she chooses to advance; if, ashamed to give privileges to France which she refuses to Ireland, she wishes to relax, 'tis well; we are ready to thank her; but if the court wishes to advance, and proposes the removal of a new doubt, by adopting a new and experimental measure, such as the present, we must assert, we reply, by establishing an old claim and an old principle. My answer to this proposition is to take the act of navigation on its true principle; and my sentiments are, Irish equality, and British shipping; and my amendment is as follows—and my vote shall be for the amendment and for the bill, for the English navigation act on its own principle."

He concluded with moving the following amendment to the preamble of the Act:

"*And whereas it is the meaning and intention of the said act, passed in England in the twelfth year of king Charles II., to impose the same restraints and to confer equal benefits on his majesty's subjects in England and in Ireland, and that both kingdoms shall be thereby affected in the same manner.*"

To put the house in possession of the whole measure, he stated that he intended to follow the amendment, by moving the annexed proviso for the Bill:

"*Provided, that the said act, passed in England, in the twelfth year of the reign of Charles II., shall bind his majesty's subjects of Ireland, so long as it shall have the effect of conferring the same benefits, and imposing the same restrictions, on both kingdoms.*"

SPEECH OF MR. GRATTAN,

IN THE

DEBATE ON TITHES.

PREFATORY OBSERVATIONS.

It will not, perhaps, be considered by the readers of this volume an unnecessary, or an unimportant inquiry, to give a short history of that system which has been so long, and with so much justice, condemned as *one* of the most fruitful sources of discontent and disaffection, among the lower classes of the people of Ireland; nor will it contribute a little to the proper understanding of the merits, and to the due appreciation of the great talents which are displayed in those speeches which were pronounced by Mr. Grattan, in the years 1787, 1788, and 89; when the south and west of Ireland were distracted by a furious and barbarous association of persons, under the denomination of whiteboys, whose cruelties and outrages could only be accounted for, by the melancholy reflection, that they seemed to have no resource but in the madness of despair—no prospect or hope of redress, but in the wild and senseless devastation of the property of those whom they considered their oppressors. Those who read the proceedings of the Irish parliament, at this memorable and afflicting pe riod, will be surprised, perhaps, that a legislature, composed of men, whose interests should have been the peace and happiness of their poor and oppressed countrymen, could discover no remedy for public grievance but the severest penalties of vindictive law; and that it should refuse inquiry into those complaints, which every dispassionate man in the kingdom acknowledges to have arisen from the greatest injustice ever practised on the poor of any country. *He*, whose heart was not closed by the seductions of interest, or whose existence did not depend on his venality, and the prostitution of his voice to the purposes of a

corrupt cabinet, saw, with pain and with indignation, the exercise of an unlimited and undefined power, in the hands of the meanest, the lowest, and most inexorable tyrants—the tithe-proctors and tithe-farmers of Ireland; a set of men, unfeeling, uneducated, and unprincipled, placed between the rector and the farmer, for the purpose of shielding the former from the odium of levying a tax, as difficult as unpleasant in the collection, and operating, in the majority of instances, as an intolerable grievance, and the fountain of bitterness and distress to the humble and industrious inhabitant of the cabin. That a protestant government, *zealous* for the propagation of its religion and its principles; that a protestant church, *anxious* for extending the foundation of its establishment and the conversion of its people; that a church, which labours, through the medium of charter schools, and the prodigal dissemination of prayer books through the land, to diffuse a *liberal and enlightened* religion, among a people whom it has often been pleased to represent and stigmatize as barbarous and uncivilized—should *have* persevered in a system so well calculated to render that *religion* odious; that it should have persevered in a system, which exposed the ministers of the protestant religion to a comparison with the meek, the humble, and protecting ministers of the catholic church; the former, from the cruel and relentless necessity of circumstances, obliged to goad and torment the miserable peasant, with all the chicanery, and cunning, and artifice of his tithe-proctor; while the catholic priest was ever to be seen administering to his mind, healing the wounds which oppression had inflicted, and preaching comfort and peace to the heart, which injustice, in her most odious form, had wrung. That the government of Ireland, but more particularly that the landed property of the kingdom, should *close* the doors of parliament against those men, who come forward to give *evidence* of the miseries and sufferings, which had goaded their fellow countrymen into acts of turbulence, and tumult, and violence, unparalleled in any other part of the civilized world. That *all this* should be done, under the mockery of protecting the church and the state against desperate innovation, and wild experiment, will *no longer* be a subject of wonder to those who have witnessed the close of that disgraceful scene, which terminated in the extinction of the liberties of Ireland. In 1788, Mr. Grattan, *the advocate of the* people, the undaunted and unanswerable



champion of public justice and public mercy, was represented by the hirelings of the castle, and the pastors of the church, as a conspirator against the peace and prosperity of his native land, and the existence of the established church. He was honoured with the titles of "factious agitator"—"turbulent demagogue," and all that miserable series of scurrility, which a prostitute and abandoned press could give birth to. That eloquence which fascinated the enemies of Ireland, while it denounced their corruption, their follies, and their crimes; that truth and courage, which convinced the reasonable, and dismayed the trading politician, were industriously slandered by the daily preachers of *Christian* charity, and the hypocritical defenders of the purity and stability of the protestant church. The curtain is now drawn up, and the minister who has completed the conquest of Ireland, has more than *vindicated* the great and glorious efforts of Mr. Grat tan in her defence. *He* cautioned the people of Ireland against that minister, in a loud and prophetic voice, and they were *deaf* to his remonstrances; *he* cautioned the country gentlemen (whose confidence Mr. Grattan ought to have possessed) against the folly and the fury of their laws, and the snare they were *artlessly* weaving for the liberty and character of their country. Mr. Grattan made his eloquent appeals in vain; the idle and stupid pride of *not* yielding to the clamours, and the tumults, and the violence of the people, was mistaken for *manly* firmness and *dignified* determination. The Irish parliament preferred a code of pains and penalties, to acts of mercy and redress! it preferred destroying and extinguishing the peasant, to an inquiry into his complaints; and after thus unnerving the arm of the people; after thus crushing their spirit to the earth, and stifling their cries, that *same* parliament stupidly called on their countrymen, in 1800, to protect them against the minister of England; they trembled for their darling ascendancy, and crouched to those honest feelings of Ireland, on which, for many years, they had been trampling. In 1800 it was not surprising, therefore, to see the people reluctant to take up arms, for the protection of that monopoly which governed them, and to perpetuate that tyranny, which, with a thousand heads, rioted on their comforts, their peace, and their feelings.—The short sketch of the history of tithes in Ireland, which we shall now give, will best demonstrate the truth of the foregoing observations.

According to the testimony of Spencer, tithes, in Ireland, were of no great value, for a length of time after the reformation; in his state of Ireland, he writes, "All the Irish priests, who now enjoy church livings in Ireland, are mere laymen; live like laymen, and *follow* all kinds of husbandry, and other worldly affairs." And elsewhere, he observes, "That the benefices are so mean, and of so small profit in those Irish countries, through the ill husbandry of the natives, they will not yield any competent maintenance for any honest minister to live upon." Primate Boulter, (whose administration commenced in 1724, and ended about 1742,) in a letter to Sir Robert Walpole, thus writes: "Since the reformation, while the lands were mostly in popish hands, the clergy took what they could get, *thankfully;* and very few went near their livings to their duty." In this state things remained until the revolution, or rather until the surrender of Limerick to king William, threw all the benefices into the hands of protestant rectors: at this period, peace was, in a great measure, restored to Ireland, and the clergy began by degrees to re-assume those rights which were heretofore disputed. In the year 1720, they demanded (as we are informed by bishop Boulter,) the tithes of Agistment,* which being resisted by the landholders of Ireland, an application was made to the court of exchequer, who determined that the clergy were entitled, by law, to the tithe of Agistment. The resistance which was made to the payment of this tithe, in the year 1734, by the country gentlemen of Ireland, should have taught their successors, in the years 1786 and '7, some moderation, and should have inspired them with some sensibility for the sufferings of the peasantry, whose conduct was *not* more reprehensible, nor more illegal, than that of the landed proprietors, in resisting the tithe of Agistment;—this example, before the eyes of an ignorant and unthinking multitude, (which, from the success that followed the efforts of the landed proprietors in 1735, was peculiarly calculated to animate and encourage the peasantry to imitation,) should have been taken into account by those legislators, who, while they consigned to death and to ignominy the poorest people of the country, *persevered* in withholding from the clergy those rights, which, *by law*, they were entitled to—by refusing to pay the tithe of Agistment; which, if paid, might have removed

* *It* was resolved by the Irish parliament, that the tithe of Agistment was oppressive to the great landholders, and injurious to the protestant interests.



much of the pressure of the church from the shoulders of the peasant, and thus diminish an *evil* which came with accumulated weight on those, who, of all others in the community, were the least able to bear it.

Of the conduct of those landholders, Primate Boulter gives the following account:—he states "That associations were entered into by most of the lay lords and commoners, to join against agistment; and the like associations were sent down to most counties against the assizes, and signed in *most* though refused in *some*—and a *common* purse was to be raised in each county to support any one there that should be sued for agistment:—there was, he writes, a rage stirred up against the clergy, that equalled any thing that had been seen against the Popish priests in the most dangerous times, though the clergy behaved themselves with a temper that surprised their enemies." The reader will bear in mind, that the persons most interested in refusing the tithe of agistment, were, the *great graziers* and *Protestant* proprietors of land; men who, possessing great interest, directly and indirectly, in the house of commons, succeeded in deterring the clergy from making, and the courts of justice from entertaining, any demands from this tithe, though no legislative act for its abolition passed until the year 1800;—thus were the pasture lands of Ireland exempted from the payment of tithe, and the rector, and his proctor or tithe-farmer, were turned on the garden of the *Catholic* cottager, while the *Protestant* landholder of a thousand acres of pasture was exonerated. Will the reader of Irish history any longer wonder at the enormities into which such monstrous injustice precipitated the ardent feelings of a people, *than* whom (Sir John Davis says,) "no men under heaven liked equal and indif ferent justice better."

"This conduct of the landholders, backed by the legislature compelled the protestant clergy to increase their demands on the farmer and the cottager—every article which the latter possessed paid the grievous and unjust tax of tithes, and the murmurs of the people increased with the exactions and the necessities of the clergy. At this period, namely, 1735, it is to be remarked, (according to Bishop Boulter,) *not* a fortieth part of the land of Ireland was under tillage—what a blow then to the agriculture—the population, and the comforts of the people must have been the exemption of *pasture lands* from the payment of tithe—ruin-

ous to the character and independence of the protestant clergy, and torturing to the miserable peasant, who saw his children denied the necessaries of life, while the rich, overgrown, protestant landholder was trampling on the laws of his country, and the interests of religion. Tithe-proctors necessarily multiplied—the rector, anxious to be shielded from the odium of the people, concealed himself under his proctor, and choosing between the alternative of circumscribing the luxuries of *his own* family, or limiting the necessaries of that of the peasant, he gave up the latter to all the cruelties of exaction, and all the goadings of injustice,—though pressed down by the inexorable cruelty of the laws—laws, which the *Protestant*, for the sake of his *character* and his *religion*, should be given up by *him* to the vengeance of the common executioner—which blot and blacken the pages of our history—which make the last century a horrid interval of darkness, during which death, in the robes of law and the ermine of justice, went through the land, with the sword in one hand, and the statute-book in the other, laying waste the finest and richest energies of our country—trampling down both mind and body, while our legislators, like so many drunken maniacs, rioted in the portico of this great national prison, and as our immortal Curran *elegantly* and *truly* said, "thinking *themselves* free when they had locked up their prisoners in their cells."—From the year 1735, when the Irish house of commons passed the *infamous* vote relative to agistment, until 1760, the poor people of Ireland bore their grievances in silence and in sadness; murmuring discontents, which *if expressed* would have been called "treason, faction, rebellion, sedition," by those very men who, to complete their own purposes, set the example of *all*. Those discontents were no longer suppressed; a variety of causes contributed to fan the spark, which was so long smothered, into a flame, which desolated the finest portion of our country; which continues year after year to make its destructive progress, and which the wisest statesmen England ever saw, have acknowledged to be the greatest evil this or any other country can labour under. In the year 1760, an epidemic disease raged among the cattle throughout the greater part of Europe; it originated in Holland; the mortality was so great, that an immediate *rise* took place in the value of lands in Ireland; the price of cattle rose in proportion, and every acre of ground, which the grazier could reach, he con-

verted into pasture; the husbandman was forced either to resign his farm or to hold it at an extravagant rack-rent. Added to this excessive rent, he had to pay his tithe—and at a period when the price of labour was miserably low. Will it be considered surprising by the protestant reader, that the catholic peasant should grumble at paying *a tenth* of his produce to a clergyman of another persuasion, when the rich protestant *grazier* was not bound to pay *one* farthing.

What was the consequence? The poor people of the south rose in arms, and endeavoured to obtain by force and violence, that relief which a protecting legislature, ought to have administered. Arthur Young, an Englishman, equally remarkable for the wisdom of his observations, as the benignity and impartiality of his views, looking at Ireland, with the eye of an honest politician—pointing out the high road to fair dealing and integrity—thus writes:—"Those tithe farmers are a *bad* sort of people—very civil to gentlemen, but exceedingly cruel to the poor; the great power of the protestant gentleman rendering his composition very *light*, while the *poor* catholic was made, in too many cases, to pay severely for the deficiency of his betters." What will an English reader say to this statement of Mr. Young?—Will he exclaim against the barbarism of Ireland, when he reads her excesses and her outrages, and takes into consideration the provocation which drove her to the committal of them?—The Irish parliament were not idle during those scenes of civil war and convulsion; the atrocities of the White boys, and the sanguinary violence of the laws, kept an equal pace, and frequently the murderer and the midnight plunderer found refuge in the *more* malignant cruelty of the law Acts of parliament now passed (said the same Mr. Arthur Young) which seemed calculated for the *meridian* of Barbary; and this arose to such an height, that by one they were to be hanged without the common formalities of a trial, which, though repealed the following sessions, marks the character and spirit of punishment; while others yet remain the law of the land, that would, if executed, tend more to raise than quell an insurrection; from all which (he goes on) it is manifest, the gentlemen of Ireland never thought of a radical cure, from overlooking the *real* cause, which, in fact, lay in themselves, and not in the wretches they doomed to the gallows. Notwithstanding those violent remedies—in the teeth of those furious

and vindictive laws, the country continued to be disturbed for the space of ten years; and at the termination of this period those disturbances ceased, as Mr. Arthur Young remarks, "Because a very considerable fall in the price of lands contributed much to abate them, and lessened the evil of hiring farms over the heads of one another." In 1784, the flame of popular tumult again burst forth, owing to the *extraordinary* fall in the value of lands after the American war;—the *fall* operating on the occupying tenant as grievously as the former rise in 1760;—the people were equally loud in their complaints against tithes, and tithe-proctors, and were often heard to declare, that they would bear *with willingness* the exactions of the middle man, if relieved from the more unjust, and consequently more corrosive impositions of the proctor.

We have now arrived at that period when Mr. Grattan took up the cause of a suffering people, with a heart full of sympathy for the miseries and wretchedness of an oppressed peasantry. Eminently susceptible of all the finest feelings of our nature;—with a mind stored with the treasures of classic literature;—invigorated by the strength, and refined by the genius of ancient days;—with an eloquence of no common stamp, full, comprehensive, animating, and energetic; on a subject of national grievance irresistible; with an industry *seldom* the companion of such extraordinary powers, and an imagination capable of fascinating the dullest audience, he came forward to plead the cause of the poor of Ireland against the wiles of the castle—the corruption of the treasury, the hypocrisy of the priesthood, and the deep and mortal hatred of the English cabinet. It has been said, by those who witnessed this great man's exertions in the years 1787, '88, and '89, that the readers of his speeches can have but an humble idea of the enthusiasm they produced among his audience. Though burning under the rays of corruption, they often felt the influence of native talent, genius, and integrity. Though menaced by the *rebuke* of the secretary, they have often involuntarily poured praise on the head, which they would afterwards have sacrificed to the vengeance of a vanquished government. In those contests Mr. Grattan was opposed by every person, and every formidable engine of the state. The crown lawyers, with the late lord Clare, who, in the years 1787 and '88 was Attorney-general, were arrayed against him, and, like Sampson, his strength

was only called forth by the number of his enemies. Mr. Grat tan, however, whose spirit is not inclined to bend, or surrender to official petulance, or the ranting and swagger of government bullies, was *not* to be deterred—he was *not* to be put down. His talents commanded attention, and the treasury, with millions at their back, could scarcely purchase a sigh of praise, when Mr. Grattan poured forth the treasures of his exhaustless understanding. He has left on record the finest specimens of eloquence in the English language, and has given to Irishmen (if Irishmen shall ever see the resurrection of their country) the finest models of senatorial virtue, indefatigable industry, and exalted powers.

The reader of the following speeches on the subject of tithes, while he is charmed by the effusions of a chastened and sublime imagination, will smile at the absurdity and the weakness of the arguments which Mr. Grattan was obliged to combat—of which time has proved the folly, and the present degradation of Ireland has established the iniquity. When he looks over the report of the Irish house of commons, in 1799, and the report of the secret committee of the house of lords, in the same year, he will then see the predictions of Mr. Grattan most fully verified; the integrity of his great and enlarged views in 1788, confirmed; and the sophistry and hypocrisy of his antagonists unmasked. He will see the same lord Clare, who defended the system of tithes in 1788—who then contended, with an asperity, a petulance, and a boldness, worthy of the office he then filled, that tithes were *not* a grievance—that they were not oppressive—he will see *even* that noble lord obliged to admit, in 1799, that this very same system of tithes was the grand impulse to rebellion: the powerful instrument, in the hands of Messrs. O'Connor, Emmet, and M'Nevin, to organize insurrection, and influence the peasantry.

Mr. Thomas Addis Emmet, when brought to the bar of the house of lords, in 1798, being asked, "What grievances his reformed legislation would remove?" answered, "In the first place, (said Mr. Emmet) it would cause a complete abolition of tithes."

Lord Clare put the following quere to Mr. Emmet. "Pray, Mr. Emmet, do you think catholic emancipation and parliamentary reform any objects with the common people?" Answer. "As to catholic emancipation, I don't think it matters a *feather*, or that the poor think of it: as to parliamentary reform, I don't

think the common people ever thought of it, until it was inculcated to them, that a reform in parliament would cause a removal of those grievances which they *actually do feel.*"

In the examination of Messrs. O'Connor, Emmet, and M'Nevin, the reader will observe the most singular corroboration of every argument advanced by Mr. Grattan in the following speeches. When Mr. Emmet (whose character for *truth* and *talent* stood *eminently* high in Ireland) was asked by lord Clare, "If his intention and that of the conspirators was not to overturn the church?" "Pardon me, my lord," said Mr. Emmet, "my intention never was to destroy the *church;* my wish was to overturn the *establishment.*"

To another question put by Mr. Foster, in the house of commons, Mr. Emmet answered, with that sincerity which marked his character, and that accuracy which distinguished his mind. Mr. Foster.—"Do you think, Mr. Emmet, the catholics peculiarly object to tithes?"—Mr. Emmet.—"They certainly have the *best* reason to *complain!* but I rather think they object more as *tenants* than as catholics, and in common with the rest of the tenantry of the kingdom; and if any other way of paying even a protestant establishment, which did *not* bear so sensibly upon their industry, were to take place, I believe it would go a great way to *content* them."

Let the reader of Mr. Grattan's opinions in 1788, mark the answer of Doctor M'Nevin, another leader in the rebellion of 1798. When this gentleman was asked, whether Mr. Grattan's *motion* about Tithes, was not a short cut towards putting down the established church? He replied, "that if the stability of the established church depends on the payment of tithes, the church stands on a *weaker* foundation than in civility I would have said of it; but of this, I am *sure,* that if tithes had been commuted, according to Mr. Grattan's plan, *a very powerful engine would have been taken out of our hands.*"

Should the readers of the following speeches, require more evidence to convince them of the wisdom and integrity of the principles they contain, I would refer them to the opinions of Mr. Pitt and Mr. Fox: to those of my lord Grenville, and all those eminent statesmen, who, with *various* views, have represented the tithe system of Ireland, one of the most grievous and oppressive of which the population of any country have to com-

plain—that some remedy should be applied to so calamitous a disease—that the bleeding wounds of our poor should be healed by the lenient hand of administration—that the physical strength of Ireland should be conciliated, at *least by a disposition*, on the part of its rulers, to lessen its vexations, and diminish its most painful privations, will be admitted by every true friend to the peace and the security of the British empire. From an attentive perusal of the following pages, the young statesman will derive *much* information; the industry he will *there* see exhibited, may animate him to honourable imitation; and the genius and integrity with which the cause of the poor is pleaded, may light up in his breast that spark of feeling for the sufferings of Irishmen, which foreign habits, and foreign connections, and foreign sympathies, might have otherwise extinguished.

On Saturday, the 10th of March, 1787, Mr. Grattan gave notice, that he would, on the following Tuesday, bring on the subject of Tithes, in order to take the sense of the country gentlemen, whether any, and what regulation should hereafter take place for the benefit of the clergyman and the farmer, and how far it might be proper, this season, to lay a foundation for such a measure.

Pursuant to the above notice, Mr. Grattan addressed the House, on Tuesday, 13th March, to the following effect:

"Sir, in this session we have, on the subject of tumults, made some progress, though we have not made much. It has been admitted that such a thing does exist among the lower order of people as distress; we have condemned their violence, we have made provisions for its punishment, but we have admitted also, that the peasantry are ground to the earth; we have admitted the fact of distress.

"We have gone further; we have acknowledged that this distress should make part of our parliamentary inquiry—we have thought proper, indeed, to postpone the day, but we are agreed, notwithstanding, in two things—the existence of a present distress, and the necessity of a future remedy.

"A multitude of particulars would be tedious; but there are some features so very striking and prominent, we cannot avoid the sight of them. Our present system of supporting the clergy, is liable to radical objections: in the south, it goes against the

first principle of human existence; in the south, you tithe potatoes. Would any man believe it? the peasant pays, I am informed, often 7*l.* an acre for land, gets 6*d.* a day for his labour, and pays from eight to twelve shillings for his tythe!—If the whole case was comprised in this fact, this fact is sufficient to call for your interference: it attacks cultivation in its cradle, and tithes the lowest, the most general, and the most compassionate subsistence of human life: the more severely felt is this, because it is chiefly confined to the south, one of the great regions of poverty. In Connaught, potatoes do not pay tithe; in the north, a moderate modus takes place when they do pay; but in the south they do pay a great tithe; and in the south you have perpetual disturbances! That the tithe of potatoes is not the only distress, I am not now to be informed. 6*l.* or 7*l.* an acre for land, and 6*d.* a day for labour, are also causes of misery; but the addition of eight, ten, or twelve shillings tithe, to the two other causes, is, and must be, a very great aggravation of that misery; and as you cannot well interfere in regulating the rent of land, or price of labour, I do not see that you therefore should not interfere where you can regulate and relieve; I do not see why you should suffer a most heavy tithe to be added to the high price of rent, and the low price of labour; neither am I sensible of the force of that supposition, which conceives a diminution of the tithe of potatoes would be only an augmentation of the rent; for I do not find that rent is higher in counties where potatoes are not tithed; nor can I see how an existing lease can be cancelled, and the rent increased, by the diminishing or taking off the tithe; neither do I see that similitude between tithe and rent, which should justify the comparison; rent is payment for land, tithe is payment for capital, and labour expended on land; the proportion of rent diminishes with the proportion of the produce, that is, of the industry—the proportion of tithe increases with the industry; rent therefore, even a high rent, may be a compulsion on labour, and tithe a penalty. The cottager does pay tithe, and the grazier does not; the rich grazier, with a very beneficial lease, and without any system of husbandry, is exempted, and throws the parson on labour and poverty. As this is against the first principle of husbandry, so another regulation is against the first principle of manufacture. You tithe flax, rape, and hemp, the rudiments of manufacture. Hence, in the

north, you have no flax farmers, though there are many who cultivate flax. You give a premium for the growth of flax, a premium for the land carriage and export of corn, and you give the parson the tithe of the land, labour, and cultivation occupied therein, contrary to the prosperity of either; as far as you have settled, you are wrong, and wrong where you have unsettled. What is the tithe is one question, what is titheable is another. Claims have been made to the tithe of turf, the tithe of roots; moduses have been disputed, litigation has been added to oppression; the business has been ever shamefully neglected by parliament, and has been left to be regulated, more or less, by the dexterity of the tithe-proctor, and the violence of the parish; so that distress has not been confined to the people, it has extended to the parson; your system is not only against the first principle of human existence—against the first principle of good husbandry —against the first principle of manufacture—against the first principle of public quiet—it goes also against the security and dignity of the clergy. Their case has been reduced to two propositions—that they are not supported by the real tithe or tenths, and that they are supported by a degrading annual contract; the real tithe or tenth is therefore unnecessary for their support, for they have done without it; and the annual contract is improper, by their own admission, and the interference of parliament proper therefore. Certainly the annual contract is below the dignity of a clergyman; he is to make a bargain with the squire, the farmer, and the peasant, on a subject which they do, and he does not understand; the more his humanity and his erudition, the less his income; it is a situation where the parson's property falls with his virtues, and rises with his bad qualities. Just so the parishioner—he loses by being ingenuous, and he saves by dishonesty. The pastor of the people is made a spy on the husbandman; he is reduced to become the annual teazing contractor and litigant, with a flock among whom he is to extend religion by his personal popularity; an agent becomes necessary for him; it relieves him in this situation, and this agent or proctor involves him in new odium and new disputes; the squire not seldom defrauds him, and he is obliged to submit in repose and protection, and to reprize on the cottager; so that it often happens that the clergyman shall not receive the thirtieth, and the peasant shall pay more than the tenth; the natural result of this is

a system which makes the parson dependant on the rich for his repose, and on the poor for his subsistence. I am sure the spirit of many clergymen, and the justice of many country gentlemen, resist such an evil in many cases; but the evil is laid in the law, which it is our duty and interest to regulate.

"From a situation so ungracious, from the disgrace and loss of making in his own person a little bargain with squires, farmers, and peasants, of each and every description, and from non-residence, the parson is obliged to take refuge in the assistance of a character, by name a tithe-farmer, and by profession an extortioner; this extortioner becomes part of the establishment of the church; by interest and situation, there are two descriptions of men he is sure to defraud, the one is the parson, the other the people. He collects sometimes at fifty per cent; he gives the clergyman less than he ought to receive, and takes from the peasants more than they ought to pay; he is not an agent who is to collect a certain rent; he is an adventurer, who gives a certain rate for the privilege of making a bad use of an unsettled claim; this claim over the powers of collection, and what is teasing or provoking in the law, is in his hand an instrument not of justice but of usury; he sometimes sets the tithes to a second tithe farmer, so that the land becomes a prey to a subordination of vultures.

"In arbitrary countries, the revenue is collected by men who farm it, and it is a mode of oppression the most severe in the most arbitrary country; the farming of the revenue is given to the Jews. We introduce this practice in the collection of tithes, and the tithe-farmer frequently calls, in aid of christianity, the arts of the synagogue;—obnoxious on account of all this, the unoffending clergyman, thrown off by the rich upon the poor, cheated most exceedingly by his tithe-farmer, and afterwards involved in his odium, becomes an object of outrage; his property and person are both attacked, and in both the religion and laws of your country scandalized and disgraced. The same cause which produces a violent attack on the clergyman among the lower order of the community, produces among some of the higher orders a languor and neutrality in defending him. Thus outraged and forsaken he comes to parliament; we abhor the barbarity, we punish the tumult, we acknowledge the injury, but we are afraid of administering any radical or effectual relief; because we are afraid of the claims of the church; they claim the tenth of what-

ever by capital, industry or premium, is produced from land. One thousand men claim this, and they claim this without any stipulation, for what appears for the support of the poor, the repair of the church, or even the residence of the preacher. Alarmed at the extent of such a claim, we conceive that the difficulty of collection is our security, and fear to give powers which may be necessary for the collection of customary tithes, lest the clergy should use those powers for the enforcing of a long catalogue of dangerous pretensions. We have reason for this apprehension; and the last clause in the riot-act has prompted a clergyman in the south to demand the tithe of Agistment, and to attempt to renew a confusion which your act intended to compose. The present state of the clergyman is, that he cannot collect his customary tithe without the interference of parliament; and parliament cannot interfere without making a general regulation, lest any assistance now given should be applied to the enforcement of dormant claims—ambiguous and unlimited.

"Thus, I submit to this house, the situation of the clergy, as well as of the people, call on you to take up at large the subject of the tithe. You have two grounds for such an investigation—the distress of the clergy, and the distress of the people.

"Against your interference three arguments are objected, two of which are fictitious, and one only is sincere. The sincere but erroneous objection is, that we ought not to affect in any degree the rights of the church; to which I answer briefly, that if, by the rights of the church, the customary tithes only are intended, we ought to interfere, to give and secure the full profit of them; and if, by the rights of the church, are meant those dormant claims I allude to, we ought to interfere to prevent their operation.

"Of the two arguments, that one on petitions relies on the impossibility of making any commutation; but this argument rather fears the change than the difficulty. This argument is surely erroneous, in supposing that the whole wit of man, in parliament assembled, cannot, with all its ingenuity, find a method of providing for 9000 persons. We, who provide for so large a civil list, military list, pension list, revenue list, cannot provide for the church. What! is the discovery of the present income of the church an impenetrable mystery? Or is it an impossibility to give the same income, but arising from a different regulation?

fixing some standard in the price of grain; or if commutation be out of the power of human capacity, is this establishment of a modus impossible—different, perhaps, in the different counties, but practicable in all? Or if not practicable, how comes it, that there should be a modus established in some parts of Ireland already for some titheable articles? Is it impossible to have a moderate modus on corn, and some modus on pasture? Or to lay on potatoes a very small modus, or rather to exonerate them as well as flax? Would it not be practicable to get rid of the tithe-farmer, and give his plunder between the people and the parson? If all this be a difficulty, it is a difficulty which is worthy of you; and if you succeed in any part of it, you do service.

"The other argument relies on the times; and I acknowledge they are an objection to the bill at present, but none against the laying the foundation now, of a measure to take place on the restoration of public peace; it may be an inducement to that peace, it cannot be an incentive to the contrary; it is giving government the full force of reward and punishment; and I apprehend, if no step whatsoever was taken, and no debate introduced at present, nothing would be done in future. I shall therefore trouble you with a motion now, and next session, with a bill on that subject."

He then moved the following resolution:

"That, if it shall appear, at the commencement of the next session of parliament, that public tranquillity has been restored in those parts of the kingdom that have been lately disturbed, and due obedience paid to the laws, this house will take into consideration the subject of tithes, and endeavour to form some plan for the honourable support of the clergy, and the ease of the people."

SPEECH OF MR. GRATTAN,

ON

THE RIOT ACT;

OR, BILL TO PREVENT TUMULTUOUS RISINGS AND ASSEMBLIES.

PREFATORY OBSERVATIONS.

THE debate which took place in the Irish House of Commons upon this Bill, is so particularly calculated to demonstrate the wisdom of those measures, which were recommended by Mr. Grattan, when giving his opinion of the operation of tithes on the industry and feelings of Ireland: the compilers of this volume conceived that they would commit no very serious chronological error, by giving the following speech, immediately after those, which though in point of time it preceded, are best illustrated by a practical comment on the violence and pride displayed in the Irish riot act, for the prevention of tumultuous risings and assemblies. In this bill, brought in and recommended by the late Lord Clare (who was then Attorney-general) will be found that species of remedy, which skims the surface of public injury, while it leaves the thorn which festered and tortured the patient, still rankling in the wound, and eating into its miserable victim.

On the 31st January, 1787, when the house was in committee, upon that part of the address to the lieutenant, which related to the disgraceful commotions then raging in the west of Ireland, the Attorney-general submitted to the house the following narrative of facts, on which he intended to found his bill, for the prevention of tumultuous risings and assemblies. He stated the rise and progress of the disturbance; "the commencement," said he, 'was in one or two parishes in the county of Kerry, and they proceed thus:—The people assembled in a catholic chapel, and there took an oath to obey the laws of Captain Right, and to starve the clergy; they then proceeded to the next parishes, on

the following Sunday, and there swore the people in the same manner, with this addition, that they (the people last sworn) should on the ensuing Sunday, proceed to the chapels of their next neighbouring parishes, and swear the inhabitants of those parishes in like manner;—proceeding in this manner, they very soon went through the province of Munster; the first object was the *reformation of tithes;* they swore not to give more than a certain price per acre; not to assist, or to allow them to be assisted in drawing the tithe, and to permit *no proctor;* they next took upon them to prevent the collection of parish cesses; next to nominate parish clerks, and, in some cases, curates; to say what church should or should not be repaired, and in one case to threaten that they would burn a *new* church, if the *old* one were not given for a mass-house; at last they proceeded to regulate the price of lands; to raise the price of labour, and to oppose the collection of the hearth-money and other taxes. Bodies of 5000 of them have been seen to march through the country unarmed; and if met by any magistrate, *they never offered the smallest rudeness or offence;* on the contrary, they had allowed persons charged with crimes, to be taken from amongst them by the magistrate *alone*, unaided by any force."

The Attorney-general said, it would require the utmost ability of parliament to come to the root of those evils; he did not believe that there was the least ground to accuse the clergy of extortion; far from receiving the *tenth*, he knew of no instance where they received the *twentieth part;* he was well acquainted with the province of Munster, and that it was impossible for human wretchedness to *exceed that of the peasantry of that province;* the unhappy tenantry were *ground to powder* by relentless landlords; that far from being able to give the clergy their just dues, they had not food or raiment for themselves; the landlord grasped the whole: and sorry was he to add, that not satisfied with the present extortion, some landlords had been so base as to instigate the insurgents to rob the clergy of their tithes—not in order to alleviate the distresses of the tenantry, but that they might add the clergy's share to the cruel rack-rents already paid; the poor people of Munster lived in a *more abject state of poverty than human nature could be supposed equal to bear;* their miseries, it is true, were *intolerable*, but they did *not* originate with the clergy, nor could the clergy stand by and see them take the re-

dress into their own hands;—upon the best consideration which he had been able to give the subject, two circumstances, which had contributed to spread the commotions, required to be immediately corrected.

The first was, that under the existing law, the kind of combination which pervaded the province of Munster, was deemed *but* a misdemeanour—a bailable offence; and no magistrate could refuse to take bail for it.

The second was, the criminal neglect and insufficiency of magistrates throughout the disturbed part of the country. To check those alarming acts, he would bring in a bill, which contained such provisions as were calculated to inflict adequate and effectual punishment, on persons guilty of outrage, riot, and illegal combination; and of administering and taking unlawful oaths.

After this candid admission, by the attorney general, of the extreme wretchedness and misery of the peasantry of the west of Ireland; and after *the confession*, that the application of an adequate and sufficient remedy to heal the public wounds, would require all the talents and understanding of parliament, it will not be forgotten, that the same law officer opposed every effort made by Mr. Grattan to institute an inquiry into the real cause of the public grievances; and that the Irish government of 1788 closed their ears against the suggestions of those mild remedies which would have restored *peace and comfort to the poor of Ireland!*

The bill now brought in, by the attorney general, for preventing tumultuous risings and assemblies, was opposed in every stage by the patriots of the day; as containing clauses unnecessary and unconstitutional. They objected, that the deviations from the English riot act were all founded in the greatest severity, *with the additional consideration*, that the Irish act was to be *perpetual*.

The attorney general supported the deviations from the English riot act; but gave up the most odious and objectionable clause—*directing the magistrates to demolish the Roman catholic chapels*, in which any combinations had been formed, or an unlawful oath administered.

The secretary, Mr. Orde, lamented that any thing should have *appeared in print*, purporting that those insurrections had arisen from *a popish conspiracy!*—He declared, he not only did *not* be-

lieve it, but he could say, he *knew* it *not* to be true; and asserted, that in some places the insurgents had deprived the Roman catholic clergy of *one half of their income.*

Upon this occasion, Mr. Curran came forward, with his accustomed boldness, to arraign the wisdom, the expediency, and the humanity of the bill, proposed by the attorney-general, for the suppression of disturbances, "What," said Mr. Curran, "has been the effect of your *sanguinary* code against Ireland? The overstrained security of your law, amounts universally to the impunity of the offender; for every good and social principle in the heart of man, is an obstruction to its execution.—The witness, the judge, and the jury, concur, by every practical artifice, to save the wretch from a punishment inadequate to the crime. I will ever oppose the principle of a bill, that *is written in blood.* The general principle receives double strength, from the double circumstance of the times.

"The disturbances of the south were not only exaggerated beyond the truth, by every misrepresentation of artful malignity, but were held up to the public mind in so silly, or so wicked a point of view, as to make it impossible for parliament to proceed, without the most imminent danger of sacrificing every advantage we have acquired. What has been the state of your ecclesiastical polity for centuries? The church of Ireland has been in the hands of strangers, advanced to the mitre, *not for their virtues or their knowledge,* but quartered on the country through their own servility, or the caprice of their benefactors; inclined naturally to oppress us, to hate us, and to defame us; while the real duties of our religion have been performed by our own native clergy; who, with all the finer feelings of gentlemen and scholars, have been obliged to do the drudgery of their profession, for *forty,* or at most for *fifty* pounds a year; without the *means* of being liberal, from their poverty; and without the *hope* of advancing themselves by their learning or their virtues—in a country where preferment was notoriously *not* to be attained by *either.*

"On this ground, I would vindicate the great body of the native acting clergy of Ireland from any imputation, because of the small progress which protestantism had made among us; the pride of episcopacy, and the low state to which our ministers of the gospel were reduced, abundantly accounted for it; their dis-

tresses and oppression were the real objects of parliamentary consideration; and not the discovery of new modes of torture, or the enactment of new statutes of blood."

No man is to be found, in the history of the Irish parliament, more distinguished for his sensibility to the distresses and sufferings of his countrymen, *of every religious persuasion*—his fearless and manly assertion of their claims to the attention, the protection, and the justice of the legislature, than Mr. Curran, (now master of the rolls.)

It is impossible to read over the parliamentary history of Ireland, for the last thirty years, without making frequent pauses, to admire the steady political virtue, the enlightened, liberal, and comprehensive views, the unrivalled efforts of genius and of wit, of our greatly gifted countryman.

Few Irishmen ever attained so proud and so exalted a situation, as that which Mr. Curran now fills, with such inflexible independence of principle, or of demeanour, or so little humility to men in power and authority. He has risen, by the splendor of his talents, and the integrity of his views, to an almost unexampled degree of public confidence. He is one of *the very few*, whose constancy to his country has been rewarded by the possession of honours, and emoluments; and was it *not* for that happy interval, when the great and benevolent mind of Charles Fox commanded an ascendency in the councils of his Majesty, we should *not* now *perhaps* be able to congratulate our countrymen, on the *justice* which has been done to the transcendant merits of their *first* advocate, and perhaps the first advocate in the British empire.

When the politicians of the day, who, (with some exception) have *risen* in this country, as they *gave* up its liberty and its honour, shall be mingled in the dust, with the hundreds whose example they have imitated; when no record will be found of their memory, nor no recollection of their names, our illustrious Curran will be the theme of every Irish seminary, the bright and glowing example of political virtue, in an age of universal sycophancy, and national degradation.

The efforts of Mr. Curran, as well as the great and splendid struggles of Mr. Grattan, *were in vain;* laws of severity were preferred to measures of redress and conciliation. The pride of the legislature would *not* be seen to capitulate to a barbarous

multitude, and a civil war was preferred, by the administration of those days, to the healing balsam of parental consideration for the acknowledged sufferings and miseries of the poor.

The riot act was the fruit of this *magnanimous spirit*, possessing all the violence of the English act, with scarcely a single provision of mercy or of humanity.

To this act, Mr. Grattan spoke as follows:

"*Mr. Speaker*, Sir, it is impossible to hear that bill read, or the question put on the committal of it, without animadversion. I agree that the south *should* be coerced. If the populace or peasantry of that district have thought proper to invade personal security, and lay the foundation of undermining their own liberties; if they have resorted to the exercise of torture, as relief for poverty, I lament their savage infatuation, and I assent to their punishment. I assent to it with shame; I blush at the cast of lawlessness thrown on the country, and I lament the necessity of a strong measure, the natural result of shabby mutiny and abortive rebellion.

"This is not the first time I have had occasion to express my concern at certain excesses of some part of our fellow subjects. See the fruit of those excesses; see the glorious effect of their labour, a riot act, aggravated, a riot act, *general* and *perpetual*.—Evils which it was *chance* to foresee, it becomes now *my* duty to mitigate.

"I will agree to the strengthening of the civil magistrate within a *certain* limitation; I would enable the magistrate to disperse such meetings as are notoriously for illegal purposes; and I will agree that it is proper not to admit persons to bail who had refused to disperse, as it could only furnish them with an opportunity of repeating their transgressions. I will agree that the persons who dug graves, provided gibbets and the like, should be punished capitally; for those who made torture their amusement, and practised such inexorable barbarity, I think merit death. I will also agree that there are several clauses in the riot act, which it may be proper to adopt. But in the very setting out of the bill, there is an evident departure from, and contradiction of, the riot act. The riot act stated, that if twelve or more persons, riotously, tumultuously, and unlawfully assembled and refused to disperse, &c. but this act stated, if persons to the

number of twelve or more, riotously, tumultuously, *or* unlawfully assembled.—The former was copulative; the latter disjunctive; and the difference was, that coming within any one of the descriptions, tumultuous, riotous, *or* unlawful, felony would ensue; though in England, to constitute the crime, each must be alleged. And when there is a deviation from the riot act, I am very sorry to find it is not one founded in mildness and mercy, but one founded in severity. Another difference from the riot act is, that in England the proclamation is obliged to be read; but by this bill, nothing more was required of the magistrate than to command the rioters to disperse, in the king's name. If they did not disperse in one hour, death was the consequence; and this I consider as putting *an hour glass* in the hand of time, to run a race against the lives of the people; and this is certainly a great objection.

"Another objection is, that if a magistrate was stopped, when repairing to the place of riot, the person who stopped him would be guilty of felony; that was, though the magistrate was resorting to an unlawful place, the person who obstructed him should be deemed to merit death. And if the persons did not disperse, if the magistrate was interrupted, the reckoning of time was to commence from the moment of his obstruction; and should they continue one hour they would be guilty of felony, and incur the punishment of death; that is, the interception of a magistrate, at a distance in this kingdom, was to be tantamount to the reading of a proclamation on the spot in England.

"This I think one of the severest clauses that was *ever* brought forward, or *ever* adopted. But even though this had been premised of the English riot act, the measure of their severity should not be a measure for the legislation of the house: if it should, it would be bad in principle, and worse in practice.

"Another clause of the bill made it felony to write, print, publish, send or carry any message, letter, or notice, tending to excite insurrection—that is, that a man, who shall write or print any letter or notice, shall be guilty—of what—of felony! Like the Draconian laws, this bill had *blood! blood!*—felony! felony! felony! in every period and in every sentence.

"Now had this bill been law for some time past, what would be the situation of every man who printed a newspaper for the last nine months?

"What would be the situation of every man who had written upon the subject of tithes? For as the right of the clergy to tithes is acknowledged to be founded in law, and as the papers and writers have argued against them, what would be the consequence? Who could tell how their conduct might be construed in a court of law? or whether they might not be adjudged guilty of felony? But I will not ask who would be guilty under such a law; but I will ask who would *not* be guilty?

"A perpetual mutiny-bill had been once the law of the land, and yet gentlemen both spoke and wrote against it as dangerous, unconstitutional, and beyond the power of parliament to sanction.

"Had this bill been then law, they would have all been guilty of felony, and suffer death. Who could tell in what manner the words *tending to excite disturbance* might be interpreted? The clause respecting the taking of arms, and ammunition, or money to purchase them, bears a similarity to the white-boy act; but the white-boy act was more guarded.

"Now look to the clause which prostrates places of public worship.—I consider *it* as casting a stain of impiety on the whole nation, and enjoining the magistrates, to commit that very act of violence, which is punished with death in the peasantry.

"It is a revival of the penal laws, and that in the most dangerous and exceptionable part.—I call upon gentlemen to consider, that they had *no charge* against the catholics to warrant this measure—to consider that they had not so much as cause for *suspicion* of them—to consider, if they were a popish peasantry, they were actuated by no popish motive;—to consider, that public thanks had been returned to the principal person of the catholic religion in this country, for his manly exertions to maintain the public peace, and to protect the rights of the established clergy; and I think, if there be any thing sacred or binding in religion, it would operate successfully against the present measure; for it would cast a stigma on the protestant religion.

"I have heard of transgressors being dragged from the sanctuary, but I never heard of the sanctuary *being demolished;* it went so far as to hold out the laws as a *sanction* to sacrilege.—If the Roman catholics were of a different religion, yet they have *one common God* and *one common Saviour* with gentlemen themselves; and surely the God of the protestant temple, was the *God of the catholic temple.*



" What then does the clause enact? that the magistrate shall pull down the temple of his God—and if it be rebuilt, and as often as it is rebuilt for three years, he shall again prostrate it, and so proceed in a repetition of his abominations, and thus *stab* the criminal through *the sides of his God*—a new idea indeed.—But this was not all; the magistrate was to sell by auction the altar of the Divinity to pay for the sacrilege that had been committed on his house. By preventing the chapel from being erected, I contend that we must prohibit the exercise of religion for three years; and that to remedy disturbance, we resort to *irreligion*, and endeavour to establish it *by act of parliament.* A commission of the peace might fall into the hands of a clergyman, and this clause *first* occasion him to preclude the practice of religion for three years, *then* involve him in vile abominations, and afterwards he must preach *peace* upon earth and *good will* towards men. With regard to the clause respecting the obstruction to the collection of tithes, I do not know how far it may be proper to go into the question of tithes; I conceive it would not be proper at all, *if not generally.* But since the clergy have with such ability, shown their right to tithes, by ecclesiastical and civil law, and that a resistance to the collection of that property, under the laws, was improper, the house would find itself in a *strange predicament for its own vote of agistment.* If tithes were legal, the house by that vote certainly deprived the clergy of a great part of them.

" I wish to have the clergy supported; I think the dignity of the country requires it; but as to making new laws for the purpose, I think that part of another business. Perpetuity was another principle of the bill, and another objection to it. Would any man say that the coercion which might be necessary, from the turbulence of one period, would be requisite at *all future times!* Was it to be handed down an inheritance to posterity? Would they tell the provinces of Ulster, Leinster, and Connaught, that they would reward their tranquillity in the same manner they did the turbulence in the south? Was it to descend from the fathers to the children, as a kind of original sin, and death and felony to be spread in every quarter? It was a fixed principle that the punishment should bear a proportion to the crime, but it was not attended to in the bill. Would any man say, that a man ought to be punished with death for writing, or influencing per-

sons, I will say, by threats or otherwise? I wish, if possible, to confine the operation of the bill to the offending counties, and contend, that if the bill is to pass in its present state (but that I believe to be impossible) I will venture to pronounce that it would be absolutely ineffectual; for the crime would be *overshot*, and the feelings of humanity would revolt at the punishment: it would indeed be the triumph of the criminal and the stigma of the laws. I desire to know, whether it is meant to press the bill, with all its clauses? whether it be intended to submit it to alteration?—If the former, I will oppose it in the first instance; if the latter should be acceded to I will vote for the committal."

PATRIOTIC SPEECH

OF

MR. EMMET,

AS DELIVERED AT THE SESSION HOUSE, DUBLIN BEFORE LORD NORBURY.

My Lords—What have I to say why sentence of death should not be pronounced on me, according to law? I have nothing to say, that can alter your predetermination, nor that it will become me to say with any view to the mitigation of that sentence which you are here to pronounce, and I must abide by. But I have that to say, which interests me more than life, and which you have laboured, (as was necessarily your office in the present circumstances of this oppressed country,) to destroy. I have much to say why my reputation should be rescued from the load of false accusation and calumny which has been heaped upon it. I do not imagine that, seated where you are, your minds can be so free from impurity, as to receive the least impression from what I am going to utter—I have no hopes that I can anchor my character in the breast of a court constituted and trammelled as this is—I only wish, and it is the utmost I expect, that your lordships may suffer it to float down your memories untainted by the foul breath of prejudice, until it finds some more hospitable harbor to shelter it from the storm by which it is at present buffeted. —Was I only to suffer death, after being adjudged guilty by *your* tribunal—I should bow in silence, and meet the fate that awaits me without a murmur: but the sentence of law which delivers my body to the executioner, will, through the ministry of that law, labour in its own vindication, to consign my character to obloquy—for there must be guilt somewhere: whether in the sentence of the court or in the catastrophe, posterity must

determine. A man in my situation, my lords, has not only to encounter the difficulties of fortune, and the force of power over minds which it has corrupted or subjugated, but the difficulties of established prejudice:—the man dies, but his memory lives: that mine may not perish, that it may live in the respect of my countrymen, I seize upon this opportunity to vindicate myself from some of the charges alleged against me. When my spirit shall be wafted to a more friendly port; when my shade shall have joined the bands of those martyred heroes who have shed their blood on the scaffold and in the field, in defence of their country and of virtue, this is my hope; I wish that my memory and name may animate those who survive me, while I look down with complacency on the destruction of that perfidious government, which upholds its domination by blasphemy of the Most High—which displays its power over man as over the beasts of the forest—which sets man upon his brother, and lifts his hand in the name of God against the throat of his fellow who believes or doubts a little more or a little less than the government standard—a government which is steeled to barbarity by the cries of the orphans and the tears of the widows which it has made.

[*Here lord Norbury interrupted Mr. Emmet, saying, that the mean and wicked enthusiasts who felt as he did, were not equal to the accomplishment of their wild designs.*]

——I appeal to the immaculate God—I swear by the throne of Heaven, before which I must shortly appear—by the blood of the murdered patriots who have gone before me—that my conduct has been through all this peril and all my purposes, governed only by the convictions which I have uttered, and by no other view, than that of their cure, and the emancipation of my country from the superinhuman oppression under which she has so long and too patiently travailed; and that I confidently and assuredly hope, that, wild and chimerical as it may appear, there is still union and strength in Ireland to accomplish this noble enterprise.—Of this I speak with the confidence of intimate knowledge, and with the consolation that appertains to that confidence. Think not, my lord, I say this for the petty gratification of giving you a transitory uneasiness; a man who never yet raised his voice to assert a lie, will not hazard his character with posterity by asserting a falsehood on a subject so important to

his country, and on an occasion like this. Yes, my lords, a man who does not wish to have his epitaph written until his country is liberated, will not leave a weapon in the power of envy; nor a pretence to impeach the probity which he means to preserve even in the grave to which tyranny consigns him.

[*Here he was again interrupted by the court.*]

Again I say, that what I have spoken, was not intended for your lordship, whose situation I commiserate rather than envy—my expressions were for my countrymen; if there is a true Irishman present, let my last words cheer him in the hour of his affliction—

[*Here he was again interrupted. Lord Norbury said he did not sit there to hear treason.*]

I have always understood it to be the duty of a judge when a prisoner has been convicted, to pronounce the sentence of the law; I have also understood that judges sometimes think it their duty to hear with patience, and to speak with humanity; to exhort the victim of the laws, and to offer with tender benignity his opinions of the motives by which he was actuated in the crime, of which he had been adjudged guilty; that a judge has thought it his duty so to have done, I have no doubt—but where is the boasted freedom of your institutions, where is the vaunted impartiality, clemency, and mildness of your courts of justice, if an unfortunate prisoner, whom your policy, and not pure justice, is about to deliver into the hands of the executioner, is not suffered to explain his motives sincerely and truly, and to vindicate the principles by which he was actuated?

My lords, it may be a part of the system of angry justice, to bow a man's mind by humiliation to the purposed ignominy of the scaffold; but worse to me than the purposed shame, or the scaffold's terrors, would be the shame of such foul and unfounded imputations as have been laid against me in this court: you, my lord, are a judge, I am the supposed culprit; I am a man, you are a man also; by a revolution of power, we might change places, though we never could change characters; if I stand at the bar of this court, and dare not vindicate my character, what a farce is your justice? If I stand at this bar and dare not vindicate my character, how dare you calumniate it? Does the sentence of death which your unhallowed policy inflicts on my body, also condemn my tongue to silence and my reputation to re-

proach? Your executioner may abridge the period of my existence; but while I exist, I shall not forbear to vindicate my character and motives from your aspersions; and as a man to whom fame is dearer than life, I will make the last use of that life in doing justice to that reputation which is to live after me, and which is the only legacy I can leave to those I honour and love, and for whom I am proud to perish. As men, my lord, we must appear at the great day at one common tribunal, and it will then remain for the searcher of all hearts to show a collective universe who was engaged in the most virtuous actions, or actuated by the purest motives—my country's oppressors or—

[*Here he was interrupted, and told to listen to the sentence of the law.*]

My Lord, will a dying man be denied the legal privilege of exculpating himself, in the eyes of the community, of an undeserved reproach thrown upon him during his trial, by charging him with ambition, and attempting to cast away, for a paltry consideration, the liberties of his country? Why did your lordship insult me? or rather why insult justice, in demanding of me why sentence of death should not be pronounced? I know, my lord, that form prescribes that you should ask the question; the form also presumes a right of answering. This no doubt may be dispensed with—and so might the whole ceremony of trial, since sentence was already pronounced at the castle, before your jury was empannelled; your lordships are but the priests of the oracle, and I submit; but I insist on the whole of the forms.

[*Here the Court desired him to proceed.*]

I am charged with being an emissary of France! An emissary of France! And for what end? It is alleged that I wished to sell the independence of my country! And for what end? Was this the object of my ambition? And is this the mode by which a tribunal of justice reconciles contradictions? No, I am no emissary; and my ambition was to hold a place among the deliverers of my country; not in power, nor in profit, but in the glory of the achievement! Sell my country's independence to France! And for what? Was it for a change of masters? No! But for ambition! O, my country, was it personal ambition that could influence me, had it been the soul of my actions, could I not by my education and fortune, by the rank and consideration of my family, have placed myself among the proudest of my oppressors?

My country was my idol; to it I sacrificed every selfish every endearing sentiment; and for it, I now offer up my life. O God! No, my lord; I acted as an Irishman, determined on delivering my country from the yoke of a foreign and unrelenting tyranny, and from the more galling yoke of a domestic faction, which is its joint partner and perpetrator in the parricide, for the ignominy of existing with an exterior of splendor and of conscious depravity. It was the wish of my heart to extricate my country from this doubly riveted despotism.

I wished to place her independence beyond the reach of any power on earth; I wished to exalt you to that proud station in the world.

Connexion with France was indeed intended, but only as far as mutual interest would sanction or require. Were they to assume any authority inconsistent with the purest independence, it would be the signal for their destruction; we sought aid, and we sought it, as we had assurances we should obtain it; as auxiliaries in war—and allies in peace.

Were the French to come as invaders or enemies, uninvited by the wishes of the people, I should oppose them to the utmost of my strength. Yes, my countrymen, I should advise you to meet them on the beach, with a sword in one hand, and a torch in the other; I would meet them with all the destructive fury of war; and I would animate my countrymen to immolate them in their boats, before they had contaminated the soil of my country. If they succeeded in landing, and if forced to retire before superior discipline, I would dispute every inch of ground, burn every blade of grass, and the last intrenchment of liberty should be my grave. What I could not do myself, if I should fall, I should leave as a last charge to my countrymen to accomplish; because I should feel conscious that life, any more than death, is unprofitable, when a foreign nation holds my country in subjection.

But it was not as an enemy that the succours of France were to land; I looked indeed for the assistance of France; but I wished to prove to France and to the world, that Irishmen deserved to be assisted! That they were indignant at slavery, and ready to assert the independence and liberty of their country.

I wished to procure for my country the guarantee which Washington procured for America. To procure an aid, which,

by its example, would be as important as its valour, disciplined, gallant, pregnant with science and experience; who would perceive the good, and polish the rough points of our character; they would come to us as strangers, and leave us as friends, after sharing in our perils and elevating our destiny. These were my objects; not to receive new task-masters, but to expel old tyrants, these were my views, and these only became Irishmen. It was for these ends I sought aid from France, because France, even as an enemy, could not be more implacable than the enemy already in the bosom of my country.

[*Here he was interrupted by the court.*]

I have been charged with that importance in the efforts to emancipate my country, as to be considered the *key-stone* of the combination of Irishmen; or, as your lordship expressed it, "the life and blood of conspiracy." You do me honour over-much. You have given to the subaltern all the credit of a superior. There are men engaged in this *conspiracy*, who are not only superior to me, but even to your own conceptions of yourself, my lord; men, before the splendor of whose genuis and virtues, I should bow with respectful deference, and who would think themselves dishonoured to be called your friend—who would not disgrace themselves by shaking your blood stained hand—

[*Here he was interrupted.*]

What, my lord, shall you tell me, on the passage to that scaffold, which that tyranny, of which you are only the intermediary executioner, has erected for my murder, that I am accountable for all the blood that has, and will be shed in this struggle of the oppressed against the oppressor?—shall you tell me this—and must I be so very a slave as not to repel it?

I do not fear to approach the omnipotent Judge, to answer for the conduct of my whole life; and am I to be appalled and falsified by a mere remnant of mortality here? By you too, who, if it were possible to collect all the innocent blood that you have shed in your unhallowed ministry, in one great reservoir, your lordship might swim in it.

[*Here the Judge interfered.*]

Let no man dare, when I am dead, to charge me with dishonour; let no man attaint my memory by believing that I could have engaged in any cause but that of my country's liberty and independence; or that I could have become the pliant minion of



power in the oppression or the miseries of my countrymen. The proclamation of the provisional government speaks for our views; no inference can be tortured from it to countenance barbarity or debasement at home, or subjection, humiliation, or treachery from abroad; I would not have submitted to a foreign oppressor for the same reason that I would resist the foreign and domestic oppressor; in the dignity of freedom I would have fought upon the threshold of my country; and its enemy should enter only by passing over my lifeless corpse. Am I, who lived but for my country, and who have subjected myself to the dangers of the jealous and watchful oppressor, and the bondage of the grave, only to give my countrymen their rights, and my country her independence, and am I to be loaded with calumny, and not suffered to resent or repel it—No, God forbid!

If the spirits of the illustrious dead participate in the concerns and cares of those who are dear to them in this transitory life—O ever dear and venerated shade of my departed father, look down with scrutiny upon the conduct of your suffering son; and see if I have even for a moment deviated from those principles of morality and patriotism which it was your care to instil into my youthful mind; and for which I am now to offer up my life.

My lords, you are impatient for the sacrifice—the blood which you seek, is not congealed by the artificial terrors which surround your victim; it circulates warmly and unruffled, through the channels which God created for noble purposes, but which you are bent to destroy, for purposes so grievous, that they cry to heaven.—Be yet patient! I have but a few words more to say. I am going to my cold and silent grave: my lamp of life is nearly extinguished: my race is run: the grave opens to receive me, and I sink into its bosom! I have but one request to ask at my departure from this world,—it is the charity of its silence!—Let no man write my epitaph: for as no man who knows my motives dare *now* vindicate them, let not prejudice or ignorance asperse them. Let them and me repose in obscurity and peace, and my tomb remain uninscribed, until other times, and other men, can do justice to my character; when my country takes her place among the nations of the earth, then, and not till then let my epitaph be written.—I have done.

THE END.

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